Accountability within Public Bodies

Open consultation responses

(Consultation period 25 March 2024 – 14 June 2024)

Consultation questions

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

Submission 1, Maud Attrill

I am writing as a personal response, using my own personal experience as a parish councillor and borough councillor, to the questions poised.

Position: Parish councillor and Borough Councillor for 2 years.

Since becoming a parish councillor, I have been very surprised to witness, what in my opinion, are the low standards that my parish exhibits. The quality of councillors is poor, with people who have no wish to do any work or accept responsibility and only wish to have the title. They are unwilling to challenge behaviour, and quite often exhibit poor behaviours themselves. There are no sanctions of value that can be taken against elected members, certainly at parish level, as they are unpaid volunteers.

I have known other parishes who have strong Chairs, and professional Clerks that do work effectively.

I believe the parish system is inherently flawed and offers poor value for money to the electorate, and should be abolished.

Answers to questions:

1. Public bodies fail to respond because councillors feel they will be held responsible. Which, of course, they should be and are responsible. Consequently, they either try to hide the problem, in an attempt to hide operational and strategic inadequacies it shows, or pretend there is no problem. Elected members, whose reasons for election vary greatly, may not have the skills to recognise the onset and development of problems. When self-analysing one's own public body, the ability to excuse problems is greater than when analysing another public body.
2. At parish level I have not seen this. At Borough level, the quality of staff is higher and systems have been put in place to remind councillors and employees regularly, though not necessarily at key decision- making points.
3. Data is absolutely essential to the decision-making process. Looking at data presented clearly, and in relation to other similar organisations, can highlight out of range data. However, back at lower levels (parish), the ability of the staff to access and use data correctly is minimal and reports are generally poor.
4. No
5. There are various technologies that can be used. Scrutiny by outside bodies. Visiting other similar bodies to adopt best practices. Having a willingness to change. Having guidance as to what they should be looking at and why and a willingness to follow it. Having an attitude of continuous improvement.
6. Evaluations should be done by those below the board on its effectiveness. At parish level I have not seen best practice, just variable practice that suits the Clerk and councillors.
7. The body that whistleblowers report to must be outside the organisation and not associated with the organisation. The fact that whistleblowers must report within an organisation would tend to lead to fear of reprisals and these fears are realistic. In small organisations this will happen, regardless of the 'systems' that are in place. The people involved in these internal systems have an interest in making sure problems

found are not exposed. Bias would be very difficult to eliminate, unless it is done to a separate organisation, and investigated by a separate organisation.

8. Unfortunately, I have seen too many examples of where organisations go out of their way not to, especially at the lower levels of public bodies. It is not in the public bodies interest to expose themselves to criticism and not in the interest of the elected councillors to allow that to happen if they wish to be elected again.

Submission 2, Sara Beckett

This submission is a personal comment
I am currently a Parish Clerk and work across 2 different Local County Authorities

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?
Lack of transparency in the first place

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

In my experience it is not so much the officers that need guidance but elected members that MUST have training within a few months of taking office.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

It depends on what data and how it is interpreted. For example, it seems that many authorities will use desk top tools to interpret local area issues that do not necessarily reflect the issues on the ground. Lack of knowledge of local areas is a huge problem

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?
Unfortunately, no

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?
An annual review of all employees and not be afraid to comment if not meeting standards or target. No more working from home

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?
Ensure value for money of employees after all its public money that pays the salaries

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?
Transparency to the public in the first place. Don't take criticism as being vexatious. Listen

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the

public. Are you aware of any examples of organisations exhibiting good practice in this area?

Unfortunately, no

Submission 3, Burton upon Stather Parish Council

1. **What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?**
Parish Councils are made up of a small body of people with no immediate support for the councillors. They often do not know who to turn to for help. If the problem is escalated, there are no sanctions if it is upheld and can cause even more difficulties for the corporate body. Councillors may believe it can be a waste of time to try to challenge the problem and could be concerned about being ostracized for making a complaint. Some may believe that it is easier to ignore the problem and hope that the situation will go away.

2. **Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?**
All councillors are given a copy of the code of conduct when elected/coopted. They are regularly reminded of standing orders and that residents perceive them as always representing the council. Councillors are asked at every meeting if there is anything they need to declare on the agenda, so that any decisions taken are made fairly without being biased.

3. **Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?**
Data can show the risks dealt with in the past so that hopefully they don't happen again. It can also show if previous activities were detrimental to how the public body was perceived by its residents and help the council to improve how it is perceived. It will show if there are several councillors causing the problem or whether it is regularly just one or two.

4. **Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?**
No

5. **What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?**
It is essential to have a good relationship with the monitoring officer at the unitary council, who is prepared to take issues with parish council seriously. Otherwise, there is nowhere for the parish council to turn to. Due to the size of the parish council, it's difficult to deal with problems since everyone knows each other and some councillors do not want to get involved. There needs to be a standard body to deal with problems at parish council level. There also needs to be good sanctions so that councillors don't keep getting away with acting in certain ways since this can be detrimental to the parish council.

6. **How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?**
Regular community engagement with residents is essential so that the council is aware of how it is perceived in the community and to see where it can make

improvements. Best practice is where you are trying to do the best for the community within the powers and duties given in legislation.

7. **Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?**
There needs to be somewhere where people can discuss things confidentially at the first instance to see if there is any case to be upheld. The parish council is too small to bring concerns up anonymously, so a dedicated board is required for this. Also, if a complaint is made it can unrest the equilibrium of the council and for that reason, some councillors may not report their concerns. This may lead to councillors resigning rather than dealing with the issue.

8. **The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?**
No

Submission 4, Care Quality Commission (CQC)

Introduction

The CQC is the independent regulator of health and adult social care in England. Our role is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage care services to improve. We register and assess services and publish what we find. Where we find poor care, we use our enforcement powers to take action.

We are an executive non-departmental public body of the Department of Health and Social Care, with our role and purpose established through the Health and Social Care Act 2008 and subsequent primary legislation such as the Care Act 2014 and the Health and Care Act 2022.

What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

Background

1. CQC is one of the few regulators funded through fees. The fees registered providers pay enable us to fulfil our purpose of making sure health and social care services provide people with safe, effective, compassionate, high-quality care, and encourage services to improve. These fees fund our statutory functions, enabling us to register, monitor, inspect and rate providers, and to carry out civil or criminal enforcement when necessary.

2. CQC consults where required to do so. We also co-produce and engage extensively with others to help us develop our plans and policies – from people who use services, those we regulate, care professionals and other organisations.

3. The Health and Social Care Act 2008 lays out our independence in regard to the monitoring, inspection and assessment of individual providers of health and social care in England. The legislation states that we are required to consult with Secretary of State for Health and Social Care on our approach but the decision on our approach sits with CQC and our independent Board. Similarly, our Market Oversight responsibilities are set out through the Care Act 2014 and are independent of government. This area of our work requires management of market sensitive financial information and as such independent and confidential management of the information is critical. The Secretary of State for the Department of Social Care has always retained the ability under section 48 of the Health and Social Care Act 2008 to request CQC to conduct a special review or investigation, funded through grant in aid from government, rather than the registration fees paid by providers to CQC.

Good practice in managing issues and risks

4. For public bodies to identify issues, **act quickly and decisively at the first sign of a problem** they need to have clear responsibilities, roles, systems of accountability and good governance. Our Well Led guidance for providers of

health and social care sets out good practice to support robust accountability, including:

- The importance of people feeling safe to speak up is a core part of organisation's listening and acting on risks. We have published a quality statement on this for providers we regulate, which states: 'We foster a positive culture where people feel that they can speak up and that their voice will be heard.'

- There are clear and effective governance, management and accountability arrangements. Staff understand their role and responsibilities. Managers can account for the actions, behaviours and performance of staff.

- The systems to manage current and future performance and risks to the quality of the service take a proportionate approach to managing risk that allows new and innovative ideas to be tested within the service.

- There are robust arrangements for the availability, integrity and confidentiality of data, records and data management systems. Information is used effectively to monitor and improve the quality of care.

5. Absence of these robust systems increases the risk that public bodies are unable to identify and resolve issues and risks rapidly. Organisational culture is an important factor in identification and escalation of issues. We conduct research to evidence the focus of our regulation. Our Safety Cultures rapid literature review, published in July 2023 concluded that a good safety culture is reliant on leaders who are open to feedback so that teams feel supported to speak up. A barrier to speaking up is a blame culture where people are afraid to raise issues. Organisations with these types of blame cultures are less likely to act quickly and decisively because issues and risks are not escalated and flagged due to fear of the consequences of speaking up. Other research we have conducted or taken part in related to culture includes, *Identifying, using, and acting upon soft signals (April 2024)*, which identified a number of benefits of using soft signal information across regulated sectors, including helping to identify risk. To harness these benefits, this study concluded that it is important to clearly define this type of information, address misconceptions about its validity, and ensure it is captured in the right way. *Responding to Challenge Red Flags for Harmful Culture in Healthcare and How to Spot Them,* identifies complacency, avoidance and denial as cultural red flags and looks at the signals that might indicate those cultures/subcultures emerging. Other factors that may cause act public bodies not to act quickly and decisively at the first sign of a problem include, constraints from regulations, competing pressures and expectations and funding constraints.

Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training

6. When appointed at CQC, Board Members agree to adhere to Nolan principles through their contracts. At every Board meeting and key decision points, Board Members are asked to declare interests and potential conflicts of interest.

Annually, a training and development programme is provided for Board members. This is based on matters aligned to organisational priorities and any areas of development identified in the annual Board effectiveness review. This year sessions have included Race and Inclusion and Freedom to Speak Up.

7. CQC has a Code of Conduct for Board members aligned to the Nolan principles and this is reviewed and approved at our Board. Public board meetings are held whereby everything is published so we are publicly accountable and transparent. Some decisions only ever take place publicly including approval of our business plan, annual report and accounts and discussion of our finance and performance reports.

8. Employees are required to complete mandatory training on a range of different areas aligned to the Nolan principles. These include, Equality, Human Rights, Diversity and Inclusion and CQCs values (Excellence, Caring, Integrity, Teamwork). There is a Scheme of Delegation for decision making at CQC which governs who makes decisions and how they are made.

9. In terms of our regulation of providers of health and social care (determined by statutory regulations set by Parliament), Regulation 5 (Fit and proper persons: Directors) is to ensure that people who have director level responsibility for the quality and safety of care, and for meeting the fundamental standards, are fit and proper to carry out this important role. This includes the seven principles of public life (Nolan principles).

10. We expect all providers of health and social care to be aware of, and follow, the various guidelines that cover value-based recruitment, appraisal and development, and disciplinary action, including dismissal for chief executives, chairs and directors, and to have implemented procedures in line with the best practice, including the Nolan Principles.

11. Regulation 20: Duty of Candour, describes a general duty to be open and transparent with people receiving care. It applies to every health and social care provider that CQC regulates. The duty of candour requires registered providers and registered managers (known as 'registered persons') to act in an open and transparent way with people receiving care or treatment from them.

    There is currently a call for evidence as part of a review by the Department of Health and Social Care to consider the operation (including compliance and enforcement) of the statutory duty of candour ('the duty') for health and social care providers in England. The review was announced in the government's response to the Hillsborough disaster report on 6 December 2023. We notice that in practice there seems to be less focus on Part 1 of the Regulation and the general duty to be open and transparent than there is on the specific requirements set out in the event of a Notifiable Safety Incident (NSI). This can mean that providers focus on technicalities of the regulation rather than the cultural and behavioural expectations at the heart of the duty.

Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risk

12. Our corporate risk framework covers the identification and management of risks to the delivery of our purpose, strategy and business plan. We use the 3 lines of defence model in managing, monitoring and independently assuring risk.

13. Data is essential for monitoring risks and controls. We monitor data metrics for risks to assess the residual risk level to provide assurance to the Board that risks are being managed effectively and to help the Board understand whether risk profiles have changed over time. The data metrics used vary according to the specific nature of the risk, but can include performance metrics, finance data and engagement insights such as survey data.

14. We have identified good practice in the use of data to understand and manage risk in providers we regulate. In our State of Care report 2022/23 we highlighted an example of using AI to improve care. Staff at one care home were noticing that large quantities of antipsychotic medicines were being prescribed for people with dementia. When people were distressed and were communicating this through behaviour, there appeared to be little consideration of the reasons why, and so they were given antipsychotics in response. But staff were convinced that these distress responses were a reaction to pain – not because the person had a diagnosis of dementia. The care home therefore worked with developers to pilot a new app that used artificial intelligence (AI) technology to help care staff identify when people were in pain. The app helps the caregiver to recognise and record facial muscle movements and identify other behaviours that indicate pain. It then calculates an overall pain score and stores the result. After it was introduced in 2021, the care home has not only been able to offer more pain relief to people, but there have been fewer conflict-related safeguarding referrals and more time available for staff. Importantly, there has also been a 10% decrease in antipsychotic medicine use across all 23 homes. This has improved the quality of life for people with dementia.

    We have published guidance on the importance of good quality digital records supporting the achievement of positive outcomes for people using adult social care. Good quality records underpin safe, effective, compassionate, high-quality care. They communicate the right information clearly, to the right people, when they need it.

15. In order to understand where public bodies may be failing to deliver for specific groups, it is vital that they undertake and then use insights from equality monitoring of access, experience and outcomes from their service. For example, monitoring ethnicity can indicate where there may be institutionalised racism existing in delivery of services, monitoring disability may indicate where services are failing to make reasonable adjustments to meet disabled people's needs. Using these insights to develop service delivery mitigates a variety of risks – in terms of equitable delivery for the whole population, reducing long term inequalities which have human and financial impact and legal risks – for example compliance with the Equality act 2010, including the Public Sector Equality Duty

Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

16. An effective management assurance process ensures that the controls needed to mitigate potential risks are in place and operating effectively. At CQC, our current management assurance process is intended through the management chain:

- Clarity of role for all managers and staff about their specific areas of accountability.
- A means of identifying and assessing key risks associated with these areas (which should be detailed also in business risk registers).
- Listening and responding to concerns of our colleagues and stakeholders is essential. As detailed in paragraph 40 we have not got this right previously and we are now implementing action to ensure we respond and act in a much more effective way.
- An agreed set of assurance checks for each area of accountability which are applied systematically, consistently and in a timely way.
- A mechanism to record whether assurances can be provided, and if not, the action taken by the manager.
- Mechanisms within the corporate governance structure to escalate areas where assurance cannot be provided, and remedial action is required.
- A process for handling Internal Audit recommendations through the implementation of actions that responsible managers have signed up to and for which they have ownership.

17. We are currently evolving our management assurance process to ensure it aligns to the Government Functional Standards.

18. We publish assessment reports on providers and there are multiple examples of Outstanding care, including processes for identifying and escalating issues. For example:

   Marie Curie Hospice and Community Services Midlands Region -Staff received supervision and support and there were also reflective practice sessions where they could discuss any issues associated with their work. There were very few complaints and concerns raised. The provider had a positive approach to using complaints and concerns to improve the quality of the service. Each complaint was assessed to establish the lessons learned and where necessary, appropriate action taken to improve the service provision for everyone using the services at the hospice.

   Warwickshire & Northamptonshire Air Ambulance & Children's Air Ambulance - All staff were actively engaged in activities to monitor and improve quality and outcomes (including, where appropriate, monitoring outcomes for people once they have transferred to other services). Opportunities to participate in benchmarking and peer review were proactively pursued. Outcomes for people who use services were positive, consistent, and regularly exceeded expectations.

What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

19. Leadership behaviour is an essential part of appropriate oversight. One of our quality statements we publish for providers describes how important it is that leaders at every level are visible and lead by example, modelling inclusive behaviours: We have inclusive leaders at all levels who understand the context in

which we deliver care, treatment and support and embody the culture and values of their workforce and organisation. They have the skills, knowledge, experience and credibility to lead effectively. They do so with integrity, openness and honesty.

20. The board needs to ensure it has set a clear purpose and direction of travel for the organisation. Leadership style should include values of openness, transparency and authenticity, and the Board must discuss principle risks and monitor performance and be responsive when things go wrong. This includes providing appropriate support and challenge to the Executive leadership of the organisation and focussing on the people within the organisation. Ensuring that they are listened to and appreciated for their diversity, skills, motivation.

21. In terms of practices, CQC Board has agreed Standing Orders which are a set of basic rules and procedures about how the Board conducts its business. The rules cover how meetings of the Board should be conducted (e.g. the number of members needed for a quorum, voting procedures); rules about setting up committees of the Board; sealing and signature of documents; and requirements on Board members in connection with declarations of interest.

22. The Code of Conduct for Board Members provides guidance on the responsibilities and standards of conduct expected of all Board members and those independent members who sit on the Board's committees and sub-committees.

23. The Board meets both in public and private session throughout the year and the public sessions, both online and in-person, have been recorded and are available to view on our website following each meeting. Our public sessions are live streamed as well as being recorded.

24. At each of its meetings, the Board receives performance data setting out our current performance and financial position, and details of activity to address where performance is under business plan targets. The Board has the opportunity to scrutinise and discuss the data during these meetings.

25. The Board has continued its commitment to achieving levels of governance that we would expect of providers when assessing whether they are well-led. It has done this by providing oversight and challenge on key issues.

How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

26. In line with good practice, we conduct an annual Board effectiveness review and importantly, every third year, this review is externally facilitated so that we have an independent view on areas for development. This review consists of a range of Board meeting observations, interviews with Board members and Board member surveys.

27. The Board recognises that it is good practice to undertake its own assessment of effectiveness of its performance, the performance of its Committees and of individual members on an annual basis. This includes Board member self-assessment with an action plan to address any development areas.

28. In between the externally facilitated Board effectiveness reviews, our central governance team conducts the Board effectiveness review. We have developed a specific template aligned to good practice, for conducting the review and areas of focus include:

- Board dynamics
- Quality and timeliness of Board papers
- Secretariat support
- Strategic oversight
- Effectiveness of sub-committee structure and reporting lines
- Board training and development

29. The Board effectiveness review results in a summary report with an action plan which is used to inform development work with the Board throughout the year.

30. For providers we regulate, we expect that Leaders have the experience, capacity, capability and integrity to ensure that the organisational vision can be delivered and risks are well managed. A robust Board effectiveness review process can be an important way of ensuring that this expectation is delivered in practice.

Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

31. One of the important indicators of openness and transparency in an organisation is the way in which it allows people to raise concerns. Our Speaking Up policy reassures staff that if they raise a genuine concern about a dangerous, illegal or improper activity at work under the policy, they will not risk losing their job or suffer from any retribution.

32. We encourage colleagues to raise a concern about any risk, malpractice or wrongdoing that they think is harming our work or the way we regulate. Some examples of this, although not restricted to this list, include:

- Unsafe working conditions or working practice.
- Criminal behaviour.
- Inadequate training or induction for staff.
- Lack of response to a reported incident.
- Suspicions of fraud.
- Unwarranted breaches of people's confidentiality or privacy.
- Bullying or harassment culture across a team/ part of the organisation.
- Discrimination – whether direct or indirect.
- Decisions we have made that can have an impact on people.
- Failings or issues about how we carry out our role.

33. We have 3 [Freedom to Speak Up Guardians](). CQC views the role of Freedom to Speak Up as there being an open culture where staff can raise comments and concerns with their managers and feel listened to. The majority of colleagues that ask for help from a guardian or ambassador do so because they need help and support with their concerns about their line manager and/or values and behaviours

within CQC. The Guardians produce a report twice a year to the CQC Board setting out the volume and type of concerns that have been raised, without identifying individuals. As part of the LLRC review, detailed in paragraph 40, we have reviewed this process to ensure it is effective.

34. We survey our staff frequently and when results related to Speaking Up or any other area are not good enough we take action to address concerns and improve as an organisation.

35. As detailed in paragraph 4, we have published a quality statement for providers about the importance of people feeling safe to speak up.

The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

36. In addition to our Parliamentary accountability, we are committed to being open and transparent in reporting to the public on how well we are discharging our responsibilities. The Board holds regular meetings in public. We publish an [annual statutory 'State of Care' report](#) which sets out our view of the overall quality of health and social care in England, and other reviews as required [under section 48 of the Health and Social Care Act 2008](#). Our website provides transparent and public facing information about which health and social care providers are meeting essential standards, to help people in making choices about their care or in raising concerns with us. We publish an annual report which looks at our progress and performance and sets out areas we need to focus on in the following year.

37. We seek to involve people and organisation's that represent them in our core activities to ensure that people's views and experiences are taken into account in decision-making, and in line with our statutory duty this includes a focus on people who are disadvantaged or suffer inequality. We do this via digital and non-digital methods such as surveys, our online participation platform, focus groups, stakeholder events, one to one interviews and by working with charities and other stakeholders who represent the views of the public. We also involve stakeholders and the public in our consultations, for example on our statutory and regulatory approach.

38. Our [public engagement strategy](#) seeks to understand and focus on what matters to people, empower people to understand the quality of care they should expect, support them to share their experiences of care with us, help them to choose between services if they want to and build public trust and confidence in our work.

39. We also [publish information on our expenditure, contracts and other information](#) to reflect the Government's agenda for increased transparency of public information.

40. We seek to learn and improve when things have gone wrong. For example, following an employment tribunal which was critical of CQC, as well as commissioning a specific independent review of our actions related to the tribunal case, we commissioned a second, wider review, [Listening, Learning, Responding to Concerns Review](#), to explore issues of culture and process that need to be addressed, so we are better able to listen and to act when information of concern

is shared with us. We have used the findings of this review to make a range of improvements in how we respond to concerns raised with us.

41. **Karuna Manor Care Home** rated 'Outstanding' in November 2023, is an example of an organisation we regulate with an open and transparent culture. We noted that: The leadership team and staff strived for excellence and had high standards of care. Staff provided excellent care. The service promoted an open culture which was inclusive and empowering. Everyone we spoke with praised the management team. The service was exceptionally responsive to people's needs. People were at the heart of everything they did. The staff team were very passionate about providing quality care. There was always a dedicated wellbeing team present this meant people could be confident that their wellbeing was always a priority. There was a wellbeing framework in place which focused on staff and people. They excelled in providing support to people at the end of their life. Families told us how well their loved ones were supported at the end of their life, people's end of life wishes were respected by a very well-trained compassionate team. The provider had a clear complaints process in place. Everyone we spoke with knew how to make a complaint. The senior management team had excellent oversight of all processes and examined incidents in detail to ensure they learned valuable lessons.

Submission 5, CIPFA, the Chartered Institute of Public Finance and Accountancy

> **CIPFA, the Chartered Institute of Public Finance and Accountancy**, is the professional body for people in public finance. CIPFA shows the way in public finance globally, standing up for sound public financial management and good governance around the world as the leading commentator on managing and accounting for public money.

Further information about CIPFA can be obtained at www.cipfa.org

1.   CIPFA's role

1.1   CIPFA provides standards and guidance on governance to the UK local government sector. To support practitioners, it provides thought leadership and training. It works with other stakeholders, including government departments, national audit bodies and the Local Government Association (LGA). It also provides advisory services to local authorities and has been commissioned to undertake financial and governance reviews for authorities experiencing difficulties.

CIPFA has a broader role in other parts of the UK public sector and internationally. The majority of our comments draw on the local government sector.

2.   What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

2.1   CIPFA considers that there are many reasons why a prompt and effective response to an emerging problem might not take place. Usually there is no single reason, but a combination of factors. In local government, the governance structure presents particular challenges, but other circumstances could apply in any public body.

Governance structure

- Dysfunctional relationships may exist between senior officers and elected representatives. Some local authorities have experienced breakdown in trust between key people at senior levels. This can mean that warning messages are not shared or are ignored, or advice is not acted on. The Independent Governance Review (2022) of Northumberland County Council commented 'leadership at both political and managerial levels is distracted, and no longer focussed on external issues but involved to an unhealthy extent on internal battles'.

- Key officers may not have the seniority they need to make their voices heard. This particularly relates to the monitoring officer and the chief financial officer (section 151 officer) but can also include others, for example the head of internal audit. The Committee on Standards in Public Life (the Committee) noted this risk in its report on Local Government Ethical Standards in 2019.

- The political cycle can make it difficult for an authority to address problems or make longer-term decisions that will be unpopular with the electorate. This can result in a focus on short-term measures to address the symptoms of the problem but not the underlying causes.

- Mechanisms for internal challenge may not function as effectively as they should. Scrutiny, audit committees and internal audit may not have a high profile and may not be as effective as they should be.

  o Where internal audit operates to a narrow scope, or there are weaknesses in the team, there may be gaps in their coverage of critical areas. Their work may lack impact and their recommendations not respected and actioned.

  o The audit committee should be a mechanism to escalate concerns in governance, risk management and internal control, and to strengthen internal accountability. Where the committee is uncertain of its role, lacks training or suffers from splits and tensions among its members, it can fail to address problem areas. If the committee is not highly regarded among other elected members, it may struggle to have influence. Committees that lack co-opted independent members may lack knowledge and experience, further reducing their effectiveness.

  o Scrutiny committees may lack officer support, particularly in district councils, or may lack training. Their reviews may lack rigour.

- Where public bodies work in partnership, for example health and local government through integrated care systems, the different governance and financial structures can make it difficult to achieve a shared understanding of issues and appropriate action. This issue was explored in a briefing, Financial planning and partnership in integrated care systems (CIPFA/NEP cloud, 2023).

Culture and behaviours

- Culture of the authority can play a part, for example the Report in the Public Interest at London Borough of Croydon (Grant Thornton, 2021) referred to a culture of corporate collective blindness among decision makers. This can mean that when concerns are raised, the danger is minimised. The Baroness Casey Review (2023) of the Metropolitan Police concluded that the force had 'too much hubris and too little humility'. The Met 'does not easily accept criticism nor "own" its failures. It does not embrace or learn from its mistakes. Instead, it starts from a position that nothing wrong has occurred. It looks for, and latches onto, small flaws in any criticism, only accepting reluctantly that any wrongdoing has occurred after incontrovertible evidence has been produced.'

- There may be specific issues around the behaviours of senior management or elected representatives. The Report in the Public Interest for Cheshire East Council (Grant Thornton, 2023) highlighted governance weaknesses resulting from the bullying behaviour of the former council leader.

Resourcing and capacity

- Resourcing pressures can divert attention from longer-term planning and strategies to short-term measures. This can be exacerbated by weaknesses in financial planning or financial management.

- There may be capacity and capability gaps. The <u>Governance Review</u> at Slough Borough Council identified an over-reliance on interim staff and gaps in capability. All local authorities are struggling to recruit and retain staff in many key areas, including finance and internal audit. Local government finance requires specialist skills and experience, and capacity and capability gaps may mean early indicators of financial difficulties or weak internal controls are missed.

3. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

3.1 From our work with public bodies, we observe that the Nolan Principles are usually embedded within their ethical frameworks. Examples are given below, but CIPFA has not undertaken an evaluation or comparison of practice in this area.

- Under the Localism Act 2011, all local authorities must have a member code of conduct that is guided by the Nolan Principles. The Committee's 2019 review noted some good practice in the sector for induction training and ongoing support for councillors, but also recommended improvements. A new model code was developed by the LGA in response.

- For employees, expectations are set out in codes and other policies, again supported by induction and training. The quality of these may vary.

3.2 CIPFA has incorporated the Nolan Principles into its professional standards and guidance to the local government sector. This should help to reinforce the principles among finance, internal audit, and governance practitioners, as well as senior management and elected representatives.

- <u>Delivering good governance in local government</u> (CIPFA/Solace, 2016) includes Core Principle A, 'Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law'. The supporting guidance requires the authority's values for members and staff to build on the Nolan Principles and ensure they are communicated and understood. Local authorities are required to assess their governance arrangements annually and report publicly through the annual governance statement.

- The Public Sector Internal Audit Standards, which is the professional standards for internal audit in the UK public sector, include the following requirement within the Code of Ethics: Internal auditors who work in the public sector must also have regard to the Committee on Standards in Public Life's <u>Seven Principles of Public Life</u>. Conformance with the standards must be externally assessed at least once every five years.

- CIPFA's <u>Financial Management Code</u> (2019) sets out good practice principles for local authorities. Financial Management Standard C is 'The leadership team demonstrates in its actions and behaviours responsibility for governance and internal control'. The guidance underpinning the standard refers to the Nolan Principles. Authorities should assess their arrangements against the standards and report effectiveness as part of the annual governance statement.

- CIPFA provides guidance to audit committees through its publication, <u>Audit committees: practical guidance for local authorities and police</u> (2022). This refers to the Nolan Principles when setting out the committee's responsibilities towards supporting the ethical framework and the annual review of governance arrangements.

4. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

4.1 Many risks that public bodies must manage cannot easily be quantified but data can be used to identify and analyse risks. Data can also be used to model alternative courses of action to inform the management of risk.

Through its guidance and analysis services, CIPFA provides tools to support local authorities in their management of risk.

- CIPFA's <u>Financial Resilience Index</u>:
  - o Two versions are available, for English local authorities and police.
  - o The Index includes comparative data for reserves, levels of external debt and percentage of revenue budget spent on social care.

- The Prudential Code for Capital Finance in Local Authorities (Prudential Code) sets out Prudential Indicators:
  - o The Prudential Code (that applies to all UK local authorities) requires authorities to look at capital expenditure and investment plans in the light of overall organisational strategy and resources and ensure that decisions are being made with sufficient regard to the long-run financing implications and potential risks to the authority.
  - o The Prudential Code sets a minimum number of Prudential Indicators that must be used in planning and monitoring revenue, capital and balance sheet.
  - o There are data monitoring and risk tools available to help authorities model their liabilities and revenue consequences of capital expenditure.
- CIPFA stats includes a range of statistical data and analysis tools. It offers comparators through the Nearest Neighbour Model tool and a Value for Money Toolkit that compare costs and performance score against a range of services. CIPFA is starting to explore predictive analytics to help authorities understand where they might be spending more in future years and plan accordingly.

Nationally there are other initiatives to provide data. The Office for Local Government (Oflog) and LGA are developing data sets to support planning and performance monitoring, with Oflog planning to use data to identify when an authority needs support. Other national initiatives include the counter-fraud data-matching programme of the National Fraud Initiative.

CIPFA has observed that it is common for authorities to compile and report complaints data. This includes ombudsman complaints. We know that some authorities reference complaints data as part of their governance evaluation that they publish in their annual governance statements, but it is more difficult to comment on whether authorities are learning lessons from this data.

Data usage to support the management of risk has potential, but there can be barriers to effective use.

- Authorities need investment to overcome legacy IT systems, interconnectivity issues, and the recruitment, training, and retention of staff with the necessary skills.
- Where the use of data involves personal data, then authorities need to ensure adequate protocols are in place and there is a legal basis for data matching and data sharing.

5.   Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

5.1   Through its standards, guidance and support to public bodies, CIPFA sets out good practice arrangements.

6.   What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

6.1   Effective oversight by boards/governing bodies is essential, but with a public body's wide range of services and responsibilities it is challenging to put into practice.

- CIPFA recommends that public bodies have an assurance framework in place to support the leadership team. It defines an assurance framework as:

  o   The means by which leaders, managers and decision makers have confidence that the governance arrangement that they have approved are being implemented, operating as intended, and remain fit for purpose.

  The leadership team can draw on a range of assurances from managers, risk and compliance functions, and audit and inspection activities to give confidence in their arrangements and take action where required. Adequate assurance is needed to support both internal and external accountability of public bodies. Public bodies should also consider their assurance needs when working collaboratively with other bodies, when services and functions are contracted, and when arms-length arrangements such as trading companies are established.

  In 2023, CIPFA published Developing an effective assurance framework in a local authority to support leadership teams understand the importance of assurance and encourage effective arrangements. Further guidance is planned during 2024.

- Public bodies should ensure that their organisational culture allows space for concerns to be expressed. Public bodies have formal mechanisms in place to identify potential issues as well as management responsibility. For example, risk management, internal audit, audit committees, scrutiny committees, whistleblowing or speak-up arrangements. In local government, the monitoring officer and section 151 officer have specific responsibilities. Ensuring these mechanisms can operate effectively, requires an organisational culture that is receptive to questions and internal challenge. CIPFA's Practice Oversight Panel issued Advisory note one in 2022 to reinforce good practice in these areas.

- Bodies should also be receptive to learning, recommendations and interventions from external peers and regulators. Learning from good practice elsewhere or lessons-learned from failures in other bodies should be a regular practice. Peer review or inspection reports should be considered seriously rather than defensively.

- In local government, authorities are required to conduct a review of the effectiveness of its system of internal control each year and prepare an annual governance

statement. The review should be an opportunity to identify what the authority is doing well, what needs to be improved and whether arrangements are fit for purpose for the future. Ensuring a range of perspectives and drawing on the assurance framework will support a robust assessment. The review should be a mechanism to reinforce internal accountability as well as supporting the external accountability of the authority. The statement is required by Statutory Instruments and guidance is provided by the CIPFA and Solace publication, Delivering good governance in local government. During 2024/25, CIPFA and Solace will be updating its guidance on the annual review and statement. We would be happy to provide the Committee with an update on our work as it progresses.

7. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

7.1 In local government there is no formal requirement to conduct an annual board effectiveness evaluation, although the annual review of the system of internal control should consider decision-making and leadership arrangements. The scope of the annual review should cover each of the seven principles of good governance in the framework. CIPFA and Solace will be undertaking a review of its guidance for the annual review during 2024/25. Good practice in undertaking the review includes:

- A wide-ranging assessment, including multiple inputs
- Evidence-based evaluations
- Subject to review before conclusions are drawn
- All key aspects of governance, as set out in the governance principles
- Considers the impact of future developments.

7.2 CIPFA's publication Leadership matters (2020) encourages the leadership team in a local government body to review their effectiveness. It includes success factors and challenge questions for teams to consider. The guide aligns to the governance framework and covers six broad areas:

- Purpose and outcomes
- Roles and responsibilities
- Ethics and promoting good conduct
- Risk management
- Leadership capability
- Stakeholder and employee engagement.

Use of the guide can inform the review for the annual governance statement.

Where a local authority sets up a company to deliver services, it should also monitor if the company's board has established values and an ethical framework. CIPFA's publication Local authority owned companies: a good practice guide (2022) includes the importance of ethical values.

8. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

8.1 CIPFA would suggest the following practices would strengthen the cultures of public bodies.

- Both senior officers and elected representatives should be adequately supported with guidance and training in their roles. Building working relationships in a political environment is especially challenging. CIPFA is currently working with Solace and Lawyers in Local Government to produce guidance for the statutory officers in their role. Training is also being developed to support statutory officers in conjunction with the LGA. Elected representatives need training to fulfil their roles effectively. Peer support and mentoring also help, providing a safe space to discuss difficult issues.

- It is essential that a robust standards regime exists to reinforce the expectations in the Nolan Principles and codes of conduct. CIPFA supported the Committee's recommendations in 2019 to strengthen the standards regime in local government, including legislation covering sanctions.

- Local government is going through a challenging period when difficult decisions need to be taken to support the longer-term sustainability of authorities. Supporting members with training in some of the more complex areas around financial and commercial strategy would encourage greater scrutiny and discussion when key decisions are made.

- Public bodies make decisions in an environment of social media and soundbites. This can encourage a reductive approach to complex issues, for which there isn't an easy fix. Unfortunately, this can have a negative impact by reinforcing a blame culture. Effective questioning and learning of lessons require a safe space and social media eliminates that. Encouraging a greater understanding of the role of public bodies, how decisions are made and the challenges that go with it, among the public would be helpful.

- Those in public life should be careful not to post or share incorrect information through social media or to make posts that undermine a safe speak-up culture.

- CIPFA provides ethics guidance and e-learning to support its professional members and students. This identifies examples of pressures that they might experience, and safeguards needed. CIPFA offers its members confidential advice for ethical dilemmas.

9. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

9.1 Local authorities conduct budget and financial strategy consultations with the public, to provide greater transparency over decisions of spending priorities. This is important where decisions to cut services have to be taken. Two examples of such approaches are:

- Nottingham City Council
- Hampshire County Council

Submission 6, CIVIC, the local councillors and supporters alliance

0. Summary

0.1 CIVIC is a group of councillors, ex-councillors and members of the public interested in supporting councillors and advocating for reform of local government. This response to the CSPL's consultation on accountability was compiled as a result of a rapid consultation with and dialogue between CIVIC's members.

0.2 Accountability in town and parish councils is inadequate. The negative impact this has on councillors, staff, and parishioners is significant, and is against the public good. We have tried to summarise the flaws. They include:

- A lack of external oversight and accountability. Town and parish councils are largely self-governing.
- Inadequate oversight and accountability of individual councillors and staff.
- Disincentives for raising problems and concerns, and a lack of protections for those who do.
- Lack of understanding and insufficient training for those in the organisation.
- Restricted access to guidance.
- 'Groupthink' and factionalism.
- Insufficient regulation.

0.3 We have included in this response potential reforms and solutions suggested by members. However, we believe much more needs to be done to recognise the problems and resolve them, including changes to legislation, regulation and guidance.

1   Who we are

1.1 This submission is sent on behalf of the organisation CIVIC, the local councillors and supporters alliance.

1.2 CIVIC is a recently formed group set up to support individual councillors in local government and to press for reform of local government law, regulation and guidance. The group has approximately 20 members. Membership is open to councillors, ex-councillors, and other members of the public with an interest supporting local councillors and in reforming local government.

1.3 CIVIC's focus is local government, particularly, but not exclusively, town and parish councils. CIVIC's membership has direct experience of some of the issues around accountability in local government.

2   How this response was drafted

2.1 CIVIC is a new group, started only in the last few weeks. We are still in the process of setting ourselves up. Consequently, as a group we have not had enough time to reach a settled consensus on all the issues of accountability in local government. However, it was thought was right to nevertheless submit this response to meet the consultation deadline.

2.2 A first draft was distributed to members for comment on 29th May. Comments were received and a second draft send out for final comments on 7th June. The final version was submitted on 11th June.

2.3 For many aspects of this response, there was little disagreement voiced by CIVIC members. However, for some aspects, especially those proposing potential solutions, we as a group have not reached a settled view. We have used the phrases 'members thought' or 'some members thought' throughout to indicate where this occurred.

3. Consultation questions and answers

3.1 We answer the consultation's questions below. Please note that we do not address all the consultation's questions.

4 Q1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

4.1 Lack of external oversight and accountability of the organisation

4.1a Town and parish councils have little external oversight and accountability.

4.1.1 Local Government Ombudsman

4.1.1a Town and parish councils are not covered by the Local Government Ombudsman (LGO).

4.1.2 Monitoring Officer

4.1.2a The conduct of individual councillors is covered by a code of conduct. Investigation of code of conduct complaints is carried out by the district council's Monitoring Officer (MO). However, the sanctions that can be imposed are limited and subject to approval by the parish council. In practice, MOs have many other duties. Complaints against councillors are often filtered out as not covered by the code of conduct or beyond the MO's remit, or, if upheld, the findings are in some cases not published. Many code breaches are resolved through 'informal resolution' and thus are not subject to a formal investigation. Complaints against a whole group of councillors are often not accepted by the MO. The code of conduct is designed for sanctioning individual councillors, but it is not an adequate tool for ensuring a council as a whole conducts itself properly.

4.1.3 Police

4.1.3a Serious misconduct might be reported to the police but they are often reluctant to investigate except in the most serious and blatant cases.

4.1.4 Auditors

4.1.4a Most town and parish councils are subject to annual internal and external audits. However, the scope of these audits is limited and dependent on how the auditor interprets their role. And the audit process is usually slow – a matter of several months – so it is not an appropriate tool for highlighting urgent problems. The audits result in recommendations that the council may or may not adopt. In addition, the internal auditor may also be the council's regional Association of Local Councils (ALC), to which the council pays membership and receives advice. This is a conflict of interest.

4.1.4b Some members commented on the lack of clarity and understanding around a council's Annual Governance and Accountability Return (AGAR), suggesting the forms mean little to the general public. It was unclear to some what matters members of the public could submit an objection on or about. As this is one of the few areas of potential accountability for councils, this is a concern.

4.1.4c In many councils the same internal auditor is used year after year, which can perpetuate practices that might be deemed questionable by a third party, and risk a too close a relationship to develop between auditor and councillors or staff.

4.1.4d The external auditors often appear overstretched. Their costs are charged back to the council, and this may discourage some from raising valid objections with them.

4.1.5 Electorate

4.1.5a It might be thought that the electorate provide the ultimate form of oversight and accountability, through elections. At the town and parish level, this is an inadequate tool. First, elections are too blunt an instrument – they occur every four years and the electorate considers many other matters, not just the conduct of the council or councillors. Second, in most cases there is no opportunity for the electorate to cast their vote anyway. Often seats are uncontested because there are too few candidates. Often vacancies are filled by co-option. In one region it is estimated that at the last election (May 2023) approximately 88% of councils had no votes cast because there were too few candidates, and approximately 88% of council seats were uncontested.

4.15b Members commented on the lack of interest in their council amongst the electorate.

4.16 In summary, there are few effective external checks on town and parish councils. This is a concern. One member described it as 'the wild west'.

4.2 Lack of sanction for individuals within the organisation

4.2.1 Councillors' code of conduct

4.2.1a The inadequacy of the enforcement of the councillors' code of conduct has been widely commented on by other organisations (such as NALC, ALCC, SLCC), and we have mentioned some of the limitations above. The lack of effective sanctions is the most often cited weakness. However, although that is a weakness, we would add that there are other flaws that, if not addressed alongside sanctions, will lead to greater injustice, and as a result hinder accountability:

1. The process of dealing with code of conduct complaints must be fair, open, consistent and just.
2. Investigations must be appropriately resourced and conducted.
3. Findings should be reached in a timely fashion.
4. The process should be subject to appeal and itself open to external scrutiny and review.
5. The scope of the code of conduct should be widened to include the whole council.
6. Compliance with sanctions should be mandatory, not at the discretion of the council.

4.2.1b We are pleased that in a few cases the LGO has investigated a MO's handling of a complaint. But we are concerned that in many cases the LGO may exclude an investigation as outside their remit.

4.2.2c Some members reported long delays (several months, over a year) in the MO dealing with complaints.

4.2.2 Officers and staff code of conduct

4.2.2a At the town and parish level, there is often no equivalent code of conduct for council officers and staff. Staff are covered by the Nolan Principles and the law, but there is nothing more specific to guide conduct. Clerks who are members of their professional society are covered by their own code, but not all clerks are members, and the code is

not open to the council or public to use. District councils and higher often have a code of conduct for officers and staff; town and parish councils should have one too, and it should be mandatory.

4.3 Poor complaints handling

4.3a The public may submit complaints about their town or parish council to the council itself (they cannot go to the LGO). Complaints may be an early sign of a problem within the organisation. For town and parish councils, however, complaints handling can have limitations:

- the council is itself responsible for approving its complaints handling process, which may itself be flawed, and there is no obligation for it have a complaints handling process at all;
- in handling complaints, the council is in effect marking its own homework. In some cases, an initial filtering of complaints is carried out by officers who may be implicated in the complaint.

4.3c Some members thought the training available to councillors and staff for handling complaints was very limited, considering the level of skill it can require.

4.4 Disincentive for the public in raising concerns

4.4a Over recent years, more councils at all levels have adopted policies designed to handle 'persistent and vexatious' complainers or communicators. The motivation is understandable; that there may be members of the public taking up a lot of council time with vexatious complaints. However, we are aware that some councils have adapted and amended these policies to weaken the checks and balances in them to such an extent that they can be applied to non-vexatious communications and to impose sanctions intended to be a disincentive to members of the public raising complaints of any kind. We are concerned that such policies may be used, whether deliberately or not, to avoid scrutiny and accountability.

4.5 Ineffective officer management and disciplinary process

4.5a The council's clerk is employed by the council as a whole, not an individual councillor. Often, the management of the clerk is delegated to a staffing committee. In practice, in many cases, the management of the clerk is inadequate, either because the councillors lack knowledge or because they are reluctant to discipline the clerk. The low number of experienced clerks may be a factor.

4.5b We have experience of many councils where a controlling group of councillors protect the clerk from scrutiny and what might be an appropriate disciplinary process, and they in return can rely on the clerk to support them and do their bidding. It is a mutually beneficial dynamic, but can work against the broader interest of the council, the public interest, and hinders accountability.

4.6 Disincentive for officers raising concerns

4.6a Conversely, the clerk or other officers may feel reliant on the support of the controlling group of councillors, or at least a majority of councillors, in order to keep their job. Were a clerk to raise a concern that their employer determined was not beneficial, or a threat to their own position or reputation, the clerk may feel they put their own employment at risk.

4.7 Lack of understanding, knowledge, and training within the organisation

4.7a Councillors often have little or no training on their role and responsibilities, or on the operation and remit of the council. Training is optional.

4.7b Clerks are encouraged to achieve a relevant qualification (eg. CiLCA), but many do not and there is no minimum mandatory qualification for the role. The costs in some cases are borne by the clerk themselves.

4.7c Best practice guidance and training is often provided by the regional Association of Local Councils (ALCs).

4.8 'Groupthink' culture and factionalism

4.8a The lack of oversight, checks and balances mentioned above, when combined in an organisation that at its heart runs on the views of a majority (as a council inevitably does), make the organisation extremely vulnerable to 'groupthink' and the marginalisation of minority views. Worse than that, it can lead to the ostracizing and discrediting of those who hold or express minority views.

4.8b CIVIC has heard of many examples where councillors were ostracized, discredited, unheard, disempowered, and blocked in their attempts to raise questions about the running of their council and to improve the level of scrutiny of the council.

4.8c Some members commented on the unavailability of mediation methods, and the lack of incentives to engage with meditation. "Once a council becomes toxic, it's hard to turn it around", one said.

4.8d The recently published 'Good Councillors Guide' from the National Association of Local Councils (NALC) crystalises this view, we believe for the first time, of the dominance of the majority to control the expression of minority councillors, when it says:

> *"Once a decision has been resolved by the council, councillors should stand by that decision, as a member of that council. Councillors should not use social media to criticise the council's decision, even if they voted against it. This is because a councillor's own personal opinion is not paramount in the collective decision-making process of a local council."*

This has obvious and concerning implications for accountability.

4.9 Lack of protection for potential whistleblowers

4.9a Whistleblowers are usually by their nature in a minority, often a very small minority. In a town or parish council, that can be a very vulnerable position, especially if you are a councillor. You are likely to find little or no support inside or outside the council. You will probably be unable to contact your regional ALC as they typically restrict access to the chair and clerk. Even if you are able to speak to them, their remit is the 'corporate interests' of the council, not your interests as a whistleblower or a councillor. The Monitoring Officer may not be able to help if it is not a code of conduct issue.

4.9b If you speak out, for example, saying that a council decision is in some way wrong, you may be tarnished as 'not a good councillor' – this is formalised in the latest NALC Good Councillors' Guide.

4.9c You may find yourself singled out – not just ostracized, but subject to threats, abuse, and allegations of bullying, and/or of bringing the council into disrepute.

4.9d If you are a councillor, you are likely to find you are expected to accept a certain level of what in other situations might be considered bullying or harassment. It can be difficult for a 'whistleblower' councillor to be sure when the line is crossed. If you are the subject of an accusation, for example, of bullying, you may wish to refer yourself to the Monitoring Officer as a way of clearing your name, only to find the MO does not accept self-referrals.

4.9e Whistleblowers or challengers often live in the parish, and can become the target of village gossip to such an extent as to make their life within the parish untenable.

4.9f We have members who, taken together, have direct experience of all the above.

4.9g Allegations of bullying that were either not upheld or not submitted for assessment were common. Several members felt such allegations had been misused to control, threaten or punish them. We are in the process of gathering impact statements from members. But some of the experiences already recounted are shocking.

4.9h You may find the only option is to ask for a judicial review. Very few are prepared to risk the expense.

4.9i Few town or parish council have a whistleblower policy. Whistleblower policies, where they exist, do not cover councillors or give them any protection.

4.10 Insufficient regulation

4.10a Alongside the insufficient oversight, the regulatory obligations placed on town and parish councils are inadequate.

4.10.1 The Transparency Code

4.10.1a The Transparency Code, which could be a useful tool for facilitating accountability and oversight, is only mandatory for the very smallest councils. For most councils in the tier, it is optional.

4.10.2 Standing Orders and Financial Regulations

4.10.2a Internal governance of town and parish councils is largely covered by each council's standing orders (SOs) and financial regulations. NALC provides model templates for both documents.

4.10.2b However, councils can modify or amend their SOs and financial regulations to weaken governance and scrutiny. Examples mentioned by members include: the removal of a councillor's right to ask a question in a meeting; the removal of the public forum; the requirement for prior permission to record the public meeting; inclusion of exemptions to financial regulations. In some cases, these amendments might be judged unlawful by a judicial review, but it is rare that they are challenged in this way.

4.10.2c Some members experienced a council's disregard for its own standing orders or financial regulations. For example, retrospective approvals once significant sums are spent. New and inexperienced councillors sometimes found themselves bulldozed by confident, but wrong, experienced councillors.

4.10.3 Misuse of control of the agenda

4.10.3a The NALC model SOs give the clerk the final say on meeting agendas. This is sometimes interpreted as giving the clerk absolute discretion on what can be included and what excluded. Members reported examples of where this had been used to block

motions from councillors out of favour, or avoid scrutiny and thus undermine accountability.

4.10.3b Often councils restrict the matters the public can raise during the public forum part of a meeting to only those items already on the meeting agenda. This restriction on parishioner engagement seems unnecessary and can be used by a council, chair, or clerk to avoid accountability.

5 Q2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

5.1 Codes of conduct

5.1a Members generally agreed codes of conduct are beneficial, but many felt they are not sufficient on their own. They must:

1. be consistent across all councils
2. be mandatory
3. be sufficient in scope to cover all kinds of misconduct, especially groups of councillors acting improperly
4. cover officers and staff as well as councillors
5. be investigated fully and fairly, with sufficient investigatory resources
6. reach a conclusion in a timely fashion
7. have an appeals process and sufficient checks in place to avoid bias
8. be investigated and enforced by an external body given the appropriate powers to do so
9. have all decisions on breaches published
10. have sufficient sanctions to ensure compliance and deterrence

5.1b Some members called for stricter rules on conflicts of interest – including those for officers.

5.2 Training

5.2a Several members thought compulsory training for councillors should be considered, especially for co-opted councillors, or prior to a councillor joining a council committee.

5.2b Several members thought all clerks should be obliged to achieve a suitable qualification, and be supported to do so.

5.2.c One member commented that the training they had received about how a council was supposed to operate was all well and good, but it did not help if their own council was not following best practice: "Yes that is what is supposed to happen. But what happens when it doesn't happen like that at the parish council? Because it isn't at mine."

5.3 Guidance

5.3a Some members thought the latest edition of the NALC Good Councillors' Guide required revision to remove the new obligation on all 'good' councillors to not criticise a council decision. Several reasons were cited: it unnecessarily restricts councillors' freedom of expression; it may have the effect of silencing potential whistleblowers (see our answer 1.9).

5.3b Several members reported they could not access sufficient guidance. Questions to the regional ALC could only go through the council chair or clerk. Councillors were not provided with password access to online NALC resources as a matter of course. In one case, the regional ALC had restricted questions to only those supported by a majority of the council, which effectively removed all access to guidance for the minority group.

6 Q3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

6a Some members agreed data is beneficial but thought summary data that covers all the town and parish councils, even within the same region, is very limited and hard to access. This makes it hard for an individual council to use it to assess risk. (Some members thought few councillors know how to assess risk, however.) It would be beneficial if summary data on council sizes, precept, asset amounts, policies, number of complaints, complaints upheld, audit results, etc. is gathered at the national level and made available to individual councils and the public.

7 Q4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

7a Some members mentioned parishioner surveys as a useful tool for gathering feedback that could be used to identify patterns and potential problems.

7b Some members felt community engagement by town and parish councils was poor (ie., either none or an infrequent community newsletter), although others were aware of good counter-examples.

7c Some members compared town and parish councils to other service providers, such as the NHS, and suggested they should adhere to recognised best practice and minimum standards as set by an independent auditor or regulator. Standards could be set for public facing duties, minimum staffing, communication with the electorate, handling complaints, services provided and to which resident groups, staff satisfaction, service user satisfaction, etc. This could work alongside a consistent processes data collection, analysis, and publication, implementing required actions and re-assess to address and solve problems.

7d Some members compared town and parish councils to businesses, where, it was suggested, auditing is much more rigorous.

8 Q5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

8a To ensure best practice and proper oversight, all members believed regulatory reform is needed for town and parish councils. This would include:

- bringing town and parish councils within the remit of the Local Government Ombudsman;
- making the Transparency Code mandatory for all councils;
- broadening and strengthening the process for handling code of conduct issues, and ensuring it is just, open and fair;
- making a code of conduct mandatory for all council staff;

- reforming the co-option process to ensure council vacancies are not filled with 'the right sort' of councillors;
- restricting further how a council's Standing Orders and Financial Regulations can be customised, amended or added to.

8b Some members felt clerks should be employed by the council the next tier up (usually the district council), rather than by the town or parish council itself. Or that the clerk should be employed by an independent third party. In either case, it would remove some of the risks of the councillor/clerk dynamics, and make it easier for clerks to voice advice that might be unpalatable.

8c Some members thought the Standards Board should be re-introduced.

8d One member said: "There are no appraisals of the performance of parish councillors. Frequently it is self-interest that drives parishioners to volunteer as councillors."

8e Some members felt town and parish councils are not amenable to reform, that they should be abolished and their functions taken on by district and borough councils. One member reported that the leader of their district council lamented how much time and financial resources was taken up by staff dealing with complaints about parish councils.

9 Q6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

9a [No answer]

10 Q7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

10a See our answers 4.4 ('Disincentive for the public in raising concerns'), 4.6 ('Disincentive for officers and staff raising concerns'), and 4.9 ('Lack of protection for potential whistleblowers'). Better protections for potential whistleblowers, both councillors and staff, are needed. The potential misuse of 'persistent and vexatious communicators' policies should be reviewed.

11 Q8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

11a Good, well-run town and parish councils exist. CIVIC members are concerned by the growing number that are not, and the lack of ability or willingness of the relevant bodies to acknowledge it or do anything about it.

Submission 7, Girton Parish Council

We are writing to you on behalf of Girton Parish Council, including our clerk, as concerned members of our community, to highlight the pressing need for reform in the accountability structures of our local parish councils. It has come to our attention that numerous councillors and clerks, who have dedicated their time and efforts to serve their communities, are facing significant challenges that undermine their roles and well-being.

The current system lacks proper channels for recourse and action to support those who have been humiliated, bullied, victimised, or have suffered mental health issues as a result of questioning the rationale behind decisions or voicing opinions that differ from those in power.

This absence of a robust support mechanism has led to many capable and well-intentioned councillors and clerks feeling unsupported and, ultimately, resigning from their positions. Councillors, unlike Clerks, do not have access through employment law to gain support through legal channels and receive compensation or clear their name.

 The role of the monitoring officer, while established to oversee conduct within councils, often fails to address issues in a timely or effective manner. This inefficiency contributes to a culture where concerns are not taken seriously, and councillors are left without the necessary backing to perform their duties confidently and without fear of retribution.

Furthermore, it is imperative to acknowledge the unique position of Clerks within the council structure. Clerks perform a critical role as the Proper Officer and, effectively, the CEO of the Parish Council. The frequent mischaracterisation of Clerks as mere administrative staff leads to instances of bullying and a lack of respect for their authoritative position.

The 'them' and 'us' attitude prevalent within a council, often perpetuated by the language used in some Parish Council training sessions, only serves to deepen the divide. For instance, we are aware of a description of councillors who also serve as clerks as coming from 'The Dark Side'. This is both unprofessional and damaging to the collaborative spirit that should define our local governance.

In light of these concerns, we urge you to consider the following reforms:

1. **Establishment of an Independent Oversight Committee**: This body would be responsible for reviewing complaints and issues raised by councillors and Clerks, ensuring that all voices are heard and that appropriate actions are taken without undue delay.
2. **Provision of Mental Health Support**: Access to mental health resources and counselling services for councillors and Clerks who have faced harassment or bullying.
3. **Recognition and Support for Councillors**: Provision of a support network akin to that available to Clerks.
4. **Training and Language Reform**: Revision of any training materials and language to foster a culture of respect and collaboration, rather than division.

The health of our local democracy depends on the well-being and support of those who serve it. We trust that you will give this matter the attention it deserves and take the necessary steps to ensure a positive and respectful environment for all members of our local parish councils.

Thank you for your time and consideration.

Sincerely,
Daniel Carney Chair Girton Parish Council
Ann Muston Vice Chair Girton Parish Council and Chair HR Committee
Yvonne Murray Clerk, Proper Officer and RFO of Girton Parish Council, Chair Histon and Impington Parish Council.

Submission 8, Grange-over-Sands Town Council

NALC – Consultation Response from Grange Town Council: The Committee on Standards in Public Life.

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

   ● Not recognising there is a problem.
   ● Poor communication.
   ● Lack of line management and strategic management.
   ● Polices and procedures not in place.
   ● People do not follow the policies and procedures.
   ● No concept of the possibility of a problem within the organisation.
   ● Lack of resources.
   ● Fear of whistleblowing.
   ● A wish to minimise potential impact of problems.

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance, and training?

   ● Have effective policies and procedures and risk assessments in place.
   ● Have relevant and updated training.
   ● Have effective communication in place for staff and volunteers, have regular opportunities for communication.
   ● Ensure that this is monitored and managed.
   ● In Town and Parish Councils, decisions are made in the public forum and recorded in minutes which are made public and published.
   ● A practical measure would be to make training mandatory for all Councillors.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

   Unclear question.

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

   No.

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

   ● Mandatory training for trustees and board members.
   ● Establish effective communication channels so the board can get feedback from staff.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

   ● Evaluations should be subject to scrutiny and conducted by independent bodies with access to levels below the board.

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

- Need to create a culture where whistleblowers feel safe.
- Have a system of regular appraisals so people can express concerns.
- Create a non-judgemental and listening environment, where support and follow up is provided.
- Effectively respond to staff concerns and show that something will be done.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

- Our observations are that Town and Parish Councils show good practice possibly because their activities are at a local level and can be easily scrutinised and challenged by residents. Practices include:
- Have Your Say – open sessions at Council meetings
- Published accounts
- Councillor surgeries

Submission 9, Sue Hobbs

Thank you for the opportunity to participate in the survey.

I have worked in the local council sector since 1995, firstly as a part-time Assistant Clerk for six years, progressing to the full-time role of Parish Clerk for fifteen years. I subsequently worked as a self-employed Locum Clerk for three years. I have worked for the Society of Local Council Clerks (SLCC) since 2019.

I have submitted this response as someone who has personal experience of the lack of decisive and effective conflict management, which resulted in me leaving my permanent employment in 2016.

This brief response represents my own views and not those of the SLCC.

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

Lack of training on conflict management, plus lack of tangible sanctions as a consequence of action.

Perceived threat of expensive processes to resolve problems.

Lack of acknowledgement that problems need to be resolved professionally, quickly and decisively.

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

The Code of Conduct is an important statutory duty for local Councillors, but it appears there is little emphasis on the consequences of non-compliance. This may be due to a lack of acknowledgement of the role of local Councillor being that of an unpaid public servant, rather than a volunteer, which is a prevalent misconception.

Higher profile awareness of the need for Council officers to be trained, qualified and respected for their professionalism.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

Appropriate staff and Member training.

Priority investment in training as standard, to ultimately improve the quality of service for communities.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

This could be included in external audit regimes, to ensure impartiality and objectivity by an external organisation, against a set of benchmark requirements.

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

Transparency and confidentiality are important factors, plus the confidence that safety from reprisals would be guaranteed, when whistle-blowing is implemented.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

Trust in all tiers of national and local government processes could play a major role in demonstrating honest, open, transparent and mutually acceptable decision-making.

Sadly, I have no knowledge of any organisations which could be shown as exhibiting good practice.

Submission 10, Information Commissioner's Office (ICO)

Introduction

1.   The Information Commissioner has responsibility for promoting and enforcing the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA), the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the Privacy and Electronic Communications Regulations 2003 (PECR). He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Information Commissioner's Office (ICO) does this by providing guidance to individuals and organisations, offering practical advice, and taking appropriate action where the law is broken.

2.   The ICO welcomes the opportunity to respond to the Committee's consultation on 'Accountability within Public Bodies'. Our comments are limited to the extent that the proposals are related to our remit.

3.   As noted in your consultation, the Nolan Principles include a clear requirement that holders of public office should act and take decisions in an open and transparent manner. Information should only be withheld from the public for clear and lawful reasons.

4.   Public Authorities (PAs) in England, Wales and Northern Ireland are required, under FOIA and the EIR, to make information available to the public. Scotland has equivalent legislation for Scottish PAs – the Freedom of Information (Scotland) Act 2002 – the responsibility for which is held by the Scottish Information Commissioner.

5.   In response to requests for information, a PA must, subject to limited specified exemptions and exceptions, confirm whether the information requested is held and provide it to the requester. FOIA also requires PAs to proactively publish key information about their performance through an approved publication scheme, while the EIR requires the proactive dissemination of environmental information.

6.   Openness and transparency are not ends in themselves; they empower people, among other things, to hold government and PAs to account. We therefore highlight these requirements as key enablers for the public's role in the accountability of PAs.

7.   Openness and transparency should be seen as core functions on a day to day basis, but they are particularly important at times of crisis. Indeed, the FOIA s.46 Code of Practice in force at the start of the covid pandemic made clear the importance of record keeping by public authorities in crisis situations. This included maintaining good quality records in situations where public bodies may "need to explain, and if necessary justify, past actions in the event of a … public inquiry".

8.   The Commissioner carried out an investigation into concerns about the use of non-corporate channels and the risk of key information not being appropriately recorded and retained by Ministers and officials, in his 2022 "Behind the Screens" report.[1] Following a letter from the ICO to her consultation on the Covid Inquiry's terms of reference, Baroness Hallett, the Chair of the Inquiry agreed to consider the quality of record keeping during the pandemic as part of her work. We look forward to seeing what additional recommendations come out of the Inquiry's work in this area.

9.   The International Conference of Information Commissioners' recently published Principles relating to Transparency by Design[2], recognising "the value of Transparency in supporting democratic accountability, good governance, good administration and the effective use of public funds, enhancing public accountability, fighting corruption and maladministration, and in empowering people, enabling their participation in decision-making processes."

10. While focusing on increasing the impact of supreme audit institutions through external engagement, a 2024 Support for Improvement in Governance and Management (SIGMA) joint paper, from the Organisation for Economic Cooperation and Development and the European Union[3], recognised the importance of the general public as a stakeholder and the "opportunity to tap into collective intelligence to inform decisions by gathering information, data, opinions and ideas from the public". Openness, both in making information available and in then considering comments and indeed criticism from members of the public following the disclosure of that information, is important in identifying warning signs and escalating issues of concern.

11. Timely proactive publication of information is valuable, particularly with regard to identification of early warning signs. It makes information available to the public quickly and easily. A Scottish 2024 Public Awareness Research survey[4] confirmed that the preferred route to access information is on a PA's website, rather than sending a request to the organisation. In an open letter to PAs, the Commissioner called on senior leaders to take transparency seriously, and emphasised the need to dedicate resources to improving it and access to information, and ensuring the right training, processes and culture are in place.[5] Transparency is essential if people and communities are to have confidence in the way public services are delivered. Proactive publication is a key to this.

12. Viewing information rights not only as a core duty, but also as a valuable tool, to gain insight, feedback and valuable user-centric views from the public can help

---

[1] Behind the Screens – maintaining government transparency and data security in the age of messaging apps
[2] Principles Relating to Transparency by Design, TbD-Paper-WG-approved.pdf (redrta.org)
[3] SIGMA Paper No 69, Increasing the impact of supreme audit institutions through external engagement (oecd-ilibrary.org)
[4] Scottish Information Commissioner's Public Awareness Research 2024, Public awareness of FOI
[5] Information Commissioner calls for senior leaders to take transparency seriously, ICO

PAs identify and escalate early warning signs and concerns. This can be done both in seeing and analysing what people are interested in, and in considering their views, comments and criticism following the disclosure of information.

13. Turning to our data protection responsibilities. It might be useful to note Part 5 of the Digital Economy Act (DEA) creates legal gateways to share information for public service delivery, allowing important data sharing to take place. The ICO has a consultative role for many of the DEA provisions, and codes of practice (CoPs) issued under the DEA are expected to align with our statutory data sharing CoP.[6]

14. The ICO also has to ensure PAs use personal information in line with the UK GDPR and the DPA. Any organisation which uses personal information must protect that information, including information made available for data analysis to identify early warning signs in the PAs work. Protecting personal information from harm and unlocking its potential should not be seen as conflicting. Organisations who put transparency, privacy and public trust at the heart of their processes will see much more effective results. Especially when using personal information for public service delivery.

15. PAs must adopt a data protection by design and default approach in their accountability and data analytics processes. This includes considering potential harm to people as a result of the proposals, throughout their development. They should also ensure no alternative, less intrusive, means of achieving the same goals exist. Information publication processes and data analysis should be reviewed during and after implementation. PAs should minimize the use of personal information in data collection, publication, and analysis.

16. As a regulator, the ICO recognises the wider societal benefits of using the information held by PAs. We welcome new approaches that may help PAs make more informed decisions. As outlined within this consultation response, FOIA is a key piece of legislation in helping hold PAs to account. The UK GDPR and DPA are not barriers preventing the use of personal data for these purposes. Instead the law should be seen as a framework for how to use personal information responsibly and effectively.

---

[6]
https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/data-sharing/data-sharing-a-code-of-practice/

Submission 11, Institute of Business Ethics

The Institute of Business Ethics exists to champion the highest standards of ethical behaviour in business. We believe that our insights and tools will also be of value in the public sector.

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

1.1 Barriers to speak up – IBE's Ethics at Work research consistently finds that the main barriers to speak up are fear and futility. It is likely that public sector organisations have additional barriers which are specific to their organisational culture, including not wanting to be seen to undermine the mission of the organisation, or colleagues.

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

2.1 We can share many examples of all of these tools, none of them specific to the Nolan principles.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

3.1 Many organisations track and mange ethics risks.

The IBE's risk survey found that the top three ethical risks in the education sector were:

1	Economic conditions (e.g. high inflation) (183)
2	Data protection and privacy (181)
3	Health and safety at work (176)

This compares to another mostly public sector – health –

1	Treatment of vulnerable customers (176)
2	Health and safety at work (169)
3	Fraud (168)

These are in comparison to the overall top ethical risks for business leaders in the survey, which were; economic conditions, data protection and privacy, and fraud.

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

4.1 A number of businesses have developed ethical culture dashboards, including NatWest, where they have seen real value in bringing together a range of metrics under regular review.

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

5.1 We believe that the IBE's business ethics framework is equally relevant to all organisations. The responsibility of boards is set out in our board guidance: https://www.ibe.org.uk/resource/ibeboardguidance.html One specific point – it is vital that boards both see data and maintain contact with practice on the ground so that they can triangulate insights, as well as learn from speak ups, complaints, exit interviews.

5.2 Ethics champions can be a valuable role – the concept has been adapted to NHS Guardians.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

Nothing specific to add here.

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

7.1 A key part of building a speak up culture is for managers to be trained in active listening, for all contributions, challenges and ideas to be valued, and to maintain the virtuous triangle through following up when issues are raised, to let colleagues know what has happened to their feedback – Speak Up, Listen Up, Feed Back.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

Nothing to add here.

Submission 12, Institute of Chartered Accountants (ICAEW)

ICAEW welcomes the opportunity to respond to the consultation on accountability within public bodies issued on 25 March 2024 by the Committee on Standards in Public Life.

> **The Nolan principles are a strong foundation, but need to be built on**
> - Greater emphasis is needed on duties to exercise reasonable care and diligence and to look after public money and resources.
> - Looking after the pennies needs to be balanced with looking after the millions and billions.
>
> **Accountability doesn't happen by accident**
> - Parliamentarians, stakeholder groups, and the public need to be more engaged.
> - Formal accountability events, such as results presentations and AGMs, are missing.
> - Independent 'broker' reports would help inform government and other key stakeholders.
>
> **Corporate governance needs to be core to how public bodies operate**
> - We recommend a Public Governance Code to bring core guidance into one place.
> - Public bodies should be required to 'comply or explain' how they have applied the code.
> - An 'air accident investigation' type body should routinely examine governance failures.
>
> **Transparency and a clear line of sight in the numbers is essential to good governance**
> - Budgeting and fiscal targets need to be aligned with accounting and financial reporting.
> - Supply Estimates need to explicitly set out the amounts allocated to public services.
> - A financial reporting review panel for public bodies would strengthen accountability.

KEY POINTS

INTRODUCTION

1. ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of sustainable economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports, and regulates more than 170,000 chartered accountant members in over 146 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical, and ethical standards.

2. This response has been prepared by ICAEW's Public Sector team in consultation with ICAEW's Public Sector Advisory Group. ICAEW's Public Sector team supports members working in and with the public sector to deliver public priorities and sustainable public finances, including over 13,000 in ICAEW's Public Sector Community.

3. ICAEW engages with policy makers, public servants, and others to promote the need for effective financial management, audit and assurance, financial reporting and governance and ethics across the public sector to ensure public money is spent wisely.

4. We would be very happy to discuss our feedback in more detail if the Committee believes that would be of assistance.

YOUR REVIEW TOPICS

5. The consultation sets out five specific topics that your review will consider:
    1. How the Nolan Principles can guide decision-making within public bodies.
    2. How public bodies can support Parliament, regulators and other bodies to hold them to account on behalf of the public, including but not limited to making available the information necessary for them to do so effectively.
    3. Best practice in managing risk within public sector organisations. How organisations can use data to analyse patterns, identify early warning signs, and escalate issues of concern in a timely manner.
    4. The role of boards of public bodies, including how they can maximise their effectiveness at providing timely challenge to the organisation.
    5. How a healthy organisational culture can help public bodies to learn from their mistakes and take action swiftly to put things right.
6. We welcome the review and support its objectives – and we hope that you will be able to gather evidence from across the public sector that will assist in addressing these topics.
7. Our evidence touches on the Nolan Principles but relates primarily to the second and fourth topics: holding public bodies to account and the role of boards of public bodies.
8. We have not answered your specific consultation questions as these are principally directed at public bodies rather than other respondents.

THE NOLAN PRINCIPLES ARE A STRONG FOUNDATION, BUT NEED TO BE BUILT ON (REVIEW TOPIC 1)

Greater emphasis is needed on duties to exercise reasonable care and diligence and to look after public money and resources

9. We reiterate our support for the Nolan Principles as set out in The Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership.
10. We also support the principles set out in the Model Councillor Code of Conduct 2020 issued by the Local Government Association that build on the Nolan Principles to give more specific guidance for elected representatives:

"In accordance with the public trust in me, on all occasions: I act with integrity and honesty; I act lawfully; I treat all persons fairly and with respect; and I lead by example and in a way that secures public confidence in the role of councillor.

*"In undertaking my role: I impartially exercise my responsibilities in the interests of the local community, I do not improperly seek to confer an advantage, or disadvantage, on any person; I avoid conflicts of interest; **I exercise reasonable care and diligence**; and **I ensure public resources are used prudently in accordance with my local authority's requirements and the public interest**."*

11. We believe that the above principles (adapted to cover all public bodies and not just local authorities) should apply to elected representatives, public servants and others with responsibility for the management, governance or oversight of public bodies.
12. We believe that greater emphasis is needed in any update of the guidance accompanying the Nolan Principles on the final two points in the above list exercising reasonable care and diligence and ensuring public resources are used prudently.
13. We also believe that there should be a greater emphasis on these points in the Ministerial Code, the Civil Service Code and other codes of conduct across the public sector, as well as in our proposed Public Governance Code (see below).

Looking after the pennies needs to be balanced with looking after the millions and billions

14. A key feature of the management of public money is based on the probity of each item of expenditure incurred. This includes requirements to disclose costs incurred that are immaterial in the context of public spending across the UK of more than £1tn each year.

For example, public bodies are required to publish details of some individual purchases of as little as £500 or even less if claimed as expenses by ministers or senior civil servants.

15. While there are strong reasons to support transparency over individual items of expenditure in this way that transcends how small the amounts involved are, there is also a need to balance this effort directed towards 'looking after the pennies' with the appropriate level of scrutiny over how the millions and billions of pounds of public money disbursed by public bodies are managed.

16. We believe there needs to be a more explicit requirement for public bodies to explain in their annual financial reports how they have sought to obtain value for money from the expenditure they incur on our behalf. For example, this might include outlining the legal and commercial due diligence processes undertaken to ensure that large contracts are negotiated to protect the public interest, or investment in the project management capabilities of staff to ensure major projects meet their objectives and are delivered cost effectively.

ACCOUNTABILITY DOESN'T HAPPEN BY ACCIDENT (REVIEW TOPIC 2)

Parliamentarians, stakeholder groups, and the public need to be more engaged

17. Similar to how the UK Stewardship Code places a duty on institutional investors to engage with listed companies, there is a need for a duty on Parliamentarians, members of devolved administrations, councillors and stakeholder groups to be involved in holding public bodies to account. Accountability is a process that requires people to engage.

18. There is also a need for public bodies to make it easier for the public to engage in the work that they do, for example by holding regular online events at which the public can get involved, ask questions and participate in debates.

Formal accountability events, such as results presentations and AGMs, are missing

19. The primary purpose of annual financial reports that include audited financial statements is to enable the leadership and management of organisations to be held to account for their stewardship of the public resources to which they have been entrusted.

20. Annual financial reports are also the vehicle through which management report on their compliance with reporting requirements, the operation of financial controls and their management of risk, and through which external auditors report on the truth and fairness of the financial statements.

21. Annual results presentations and AGMs in organisations outside the public sector provide forums at which boards provide an account to their key stakeholders of their performance and at which stakeholders can ask questions and receive answers on how boards have discharged their duties.

22. Unfortunately, government departments, local authorities[7] and most other public bodies do not hold annual general meetings (AGMs) at which they present their annual financial report for adoption or submit themselves to the scrutiny of stakeholders, nor do they present their annual results to their stakeholders. While there are meetings with ministers and officials (or equivalent) these may or may not be public and not necessarily focused on accountability.

23. Annual results presentations and AGMs are both a way of engaging stakeholders but – perhaps even more importantly – a way of ensuring boards and management teams hold themselves to account for their performance in running a public body.

24. We think nominated elected representatives and peers[8] (separate and additional to select committee members) should attend annual result presentations and annual general

---

[7] Local authorities usually have 'annual general meetings', but these are the same as an AGM that includes the adoption of an annual financial report or questioning by stakeholders on the contents of the audited financial statements.

[8] Or elected members for devolved administrations, or councillors for local public bodies.

meetings or equivalent of public bodies alongside ministers and officials (or councillors and officials for local public bodies). We believe relevant stakeholder groups should also be able to attend such events and question the leadership of public bodies.

25. We further believe that the public should be able to attend remotely, providing a forum for those who are interested to participate in a way that is open and transparent but that is at the same time manageable for individual public bodies.

26. We believe such accountability events should complement the oversight role played by select committees over departments and the public bodies for which they are responsible, or by the Committee of Public Accounts (PAC) – or equivalent committees in the devolved administrations.

Independent 'broker' reports would help inform government and other key stakeholders

27. Government should consider employing independent analysts to produce the equivalent of 'broker' notes on public bodies.

28. In the private sector, analyst or 'broker' reports draw on annual financial reports and other available information, as well as discussions with senior management, to provide insights into the strategic, operational and financial position of the organisations concerned and the challenges they face.

29. While a 'buy/sell/hold' recommendation will of course not apply to public bodies, this type of analysis would be very helpful in providing a strategic financial assessment of how individual public bodies are performing, supporting the government, Parliamentarians, other stakeholders, and the public in holding public bodies and their management teams to account.

CORPORATE GOVERNANCE NEEDS TO BE CORE TO HOW PUBLIC BODIES OPERATE (REVIEW TOPIC 4)

We recommend a Public Governance Code to bring guidance into one place

30. We believe there would be significant benefit to bringing together core corporate governance and conduct guidance from across the public sector into a Public Governance Code, similar to the UK Corporate Governance Code that applies to listed companies.

31. The Public Governance Code should apply to all public bodies, including government departments, devolved administrations, agencies, quangos, regional assemblies and combined authorities, local authorities, town, village and parish councils, and public corporations.

32. The Public Governance Code should either incorporate or be accompanied by a stewardship code (similar to the UK Stewardship Code applicable to investors in listed companies) setting out duties on Parliamentarians, members of devolved parliaments and assemblies, councillors and other elected representatives to actively engage in holding public bodies to account.

33. Such a code or codes should encompass the Nolan Principles, Managing Public Money, the code of good practice on corporate governance in central government departments, statutory guidance on Best Value in local authorities, the Green Book and other relevant existing guidance on how public bodies should operate.

34. There may also be elements of the UK Corporate Governance Code that could be usefully incorporated.

Public bodies should be required to 'comply or explain' how they have applied the Public Governance Code

35. We recommend that all public bodies should be required to confirm annually their compliance with the Public Governance Code or explain and give reasons for any divergences.

36. The best location for such a statement of compliance would in their annual financial report to be presented to stakeholders at an annual accountability event such as an AGM.

An 'air accident investigation' type body should routinely examine governance failures

37. Governance failures have happened and will continue to happen in the future.

38. We believe a standing body should be created to routinely examine governance failures within public bodies and make recommendations to address such failures.

39. While this would not eliminate the need for formal public inquiries in egregious cases, a standing body with the appropriate multidisciplinary expertise already available would enable investigations to be commenced, reported on, and resolved much more quickly than through formal public inquiries.

40. With a lower threshold for referral than for public inquires, such a body would be able to investigate governance issues when they first emerge and before they become major failures.

41. Such a body would complement the role played by external auditors, providing a route for escalation where a public body is not able or willing to address concerns that external auditors may raise.

TRANSPARENCY AND A CLEAR LINE OF SIGHT IN THE NUMBERS IS ESSENTIAL TO GOOD GOVERNANCE
(REVIEW TOPICS 2 AND 4)

Budgeting and fiscal targets need to be aligned with accounting and financial reporting

42. A key challenge in the ability of public bodies to be held to account is a lack of transparency in the numbers used to budget and monitor performance.

43. This is partly a systemic issue arising from the use of three different accounting frameworks: resource accounting (DEL and AME) in central government departments (or statutory overrides in local authorities) for budgeting and planning, International Financial Reporting Standards (IFRS) for accounting and financial reporting, and the National Accounts for fiscal targeting. Revenues, expenditures, assets and liabilities are measured differently in each framework, with complex reconciliations required between them that can make it difficult for those holding public bodies (particularly government departments) to account to understand what is going on.

44. While the Public Administration and Constitutional Affairs Committee inquiry Accounting for Democracy led to a reduction in the differences between parliamentary supply using resource accounting and the financial results and position reported in departmental accounts in accordance with IFRS, there remains significant differences between the two bases involving complicated reconciliations. Similarly, there are significant differences between the statutory budgets and financial accounting for local authorities.

45. We believe holding public bodies to account would be significantly easier if there was a single accounting framework for budgeting and planning, accounting and financial reporting and fiscal target setting, similar to the approaches adopted by Canada, Australia and New Zealand.

Supply Estimates need to explicitly set out the amounts allocated to public services

46. It is not easy to understand how the total expenditures reported to ministers, Parliament and the public link to amounts spent on individual public services. This lack of a 'line of sight' between how public money is allocated and what it is spent on makes it very difficult

to manage the public finances effectively or to hold departments or other public bodies to account.

47. This is exemplified by supply estimates presented to Parliament that provide at best very high-level categories of expenditure and in many cases almost no detail at all.

48. The lack of transparency in the funding received by government departments and how they plan to spend it makes it more difficult to hold government departments to account.

49. We believe that accountability would be enhanced significantly by greater transparency in supply estimates, with a sufficiently detailed list of public services provided by each department and how much is budgeted for each public service. At the very least, the 20 largest budget headings for each department should be listed, together with smaller budget line items of public interest.

A financial reporting review panel for public bodies would strengthen accountability

50. The Corporate Reporting Review function of the Financial Reporting Council (FRC) (formerly the Financial Reporting Review Panel) is an established element of the accountability framework for listed and larger private companies. The function reviews the annual financial reports of companies in scope for compliance with legislative and other reporting requirements, engages with preparers where concerns have been identified (and can require changes where appropriate), and identifies and encourages best practice.

51. There is no equivalent financial reporting review panel for public bodies in the UK.

52. We believe the accountability framework for public bodies would benefit from a review panel in order to actively improve the quality of annual financial reports.

Submission 13, Ewan Larcombe

1) This is a response from myself - Ewan Larcombe.
2) I registered and am the Leader of the National Flood Prevention Party. I was first elected to a Parish Council in 1986 and to the Borough Council in 2019. Today I am a Member of three Parish Councils and the Borough Council. I am appointed to the Thames RFCC.
3) I am concerned about the lack of honesty, openness and accountability which results in a lack of confidence and failure of trust between Councillors, Officers, external authorities and ultimately the electorate.
4) In my opinion the main reasons (in no particular order) why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation are as follows:
   - a) Council Officers withholding the truth from Councillors
   - b) Councillors making promises that cannot be kept
   - c) Partnership working claims which are a figment of the imagination
   - d) Hidden agendas and **lack of candour**
   - e) Council controlling groups that either ignore or overwhelm opposition
   - f) The use of 'political proportionality' to disenfranchise ungrouped Councillors
   - g) Council Officers hiding behind 'policy' rather than using common sense
   - h) Council unable to afford to act (for example – planning enforcement)
   - i) Councillors thinking that they know it all and not listening to the electorate.
   - k) Refusal to answer legitimate questions.
5) I am using as an example the two local flood alleviation schemes that demonstrate four decades of wasted resources. The two projects are firstly the Maidenhead, Windsor and Eton Flood Alleviation Scheme (MWEFAS) and secondly the Lower Thames Flood Risk Management Strategy (LTFRMS). This ultimately became the River Thames Scheme (RTS) and a Nationally Significant Infrastructure Project (NSIP) – which is currently seeking a Development Consent Order (DCO) from the Planning Inspectorate.
6) The MWEFAS had (and still has) design, construction, maintenance and operational issues.
7) Since the £100m MWEFAS project was brought into use in 2002, the flood attenuating features upstream have been by-passed - and dredging neglected. We have flooded four times. The LTFRMS commenced around 2008 and then converted into the RTS.
8) 'Partnership funding 'was introduced by Defra in 2011 thus a significant financial contribution from the lead local flood authority and local businesses was required for any project to proceed.
9) The RTS Sponsor Group was set up around 2015 and included Members and Officers from RBWM who were aware of the required PF contribution. Timescales became extended and estimated costs increased over time. RTS total costs were about £650m and the RBWM PF contribution amounted to about £53m.
10) The Conservative literature published for the May 2019 local elections stated as follows: *River Thames Scheme – We will support the development of the River Thames Scheme to protect residents from flooding with a £10 million contribution to aid construction.* (The true PF contribution was £53m.) Two of the three Conservative candidates won seats.
11) In July 2020 RBWM confirmed to the Sponsor Group that they were unwilling/unable to contribute the required £53m PF contribution. RTS Channel

One was withdrawn from the project immediately. The two Conservative Councillors who won seats on 2019 did not seek re-election at the 2023 local elections. Furthermore the Leader and Deputy Leader of the Council both lost their seats.

12) MY CONCERNS AS FOLLOWS:

a) **The EA is withholding the names of the RBWM Councillors and Officers** who represented (actually misrepresented) RBWM on the Sponsorship Group from 2015 to July 2020.

b) Those individual Councillors and Officers also **failed to be open and honest** with RBWM Council and the electorate - by repeatedly talking about a £10m contribution and not talking about the £53m PF requirement.

c) March 2023 - Conservative election literature still referred to a £10m contribution to a new project (Datchet to Hythe End Flood Improvement Measures). Money was previously spent in this area from 2008 to 2020 - so here we go again – same place, same project, and just a different name!

d) In my opinion the RTS Sponsoring **Group failed to agree an irrevocable financial commitment** from the PF contributing parties at an early stage of the project. Consequently **many years (and much money) were wasted developing a project without secured funding.**

e) Today – over twenty years have passed since we were first flooded in 2003 – we still have no improved flood defences – **and no River Thames dredging.**

f) The root cause of our problems is the Defra concept of 'Partnership Funding' combined with the 'lead local flood authority' designation. In my opinion PF was conceived to attract additional funding in order to develop bigger and better flood alleviation schemes. The practice of PF is now being used to inhibit or prevent flood alleviation schemes.

g) In the case of the River Thames Scheme - much project development time and money has been wasted to date. **My view is that it is unrealistic to expect a relatively small Unitary Authority (RBWM) – as a designated lead local flood authority by the FWMA 2010 - to contribute £53m to a flood alleviation scheme.**

h) **My personal experience over many years includes evidence of a lack of honesty, openness, transparency and accountability– and it is still going on now!**

END

Submission 14, Local Government Association (LGA)

Introduction

The Local Government Association (LGA) is the national voice of local government. We are a politically led, cross party membership organisation, representing 339 local authorities from England and Wales.

Our role is to support, promote and improve local government, and raise national awareness of the work of councils. We support councils to deliver local solutions to national problems.

While the questions for this consultation refer to employees, it is important to recognise distinctive accountability features relating to local government, primarily councillors' democratic mandate and accountability to the electorate. As such, consideration of accountability in local government must recognise the distinct roles and responsibilities of councillors and officers.

Summary

The LGA is committed to supporting high standards of conduct and behaviour in public life.

There is a broad number of controls as part of a wider assurance framework which contribute to ensuring that the Seven Principles of Public Life are upheld across local government and that breaches are identified and suitably handled. The LGA has mapped the improvement and assurance framework for local government which sets out the systems which contribute to assurance and accountability in local government and provides a significant range of support to councils to help implement good assurance and delivery effective accountability.

Response to consultation questions

1. **What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?**

    1.1. Our work to map the improvement and assurance framework for local government has identified the importance both of effective internal controls and organisational culture, and of political and managerial leadership in setting a culture of accountability and good governance.

    1.2. A lack of quick and decisive action can result from systemic issues, where an organisation lacks appropriate policies and procedures to ensure effective controls, or individual issues, where people fail to comply with policies and procedures.

    1.3. Key internal controls include: appropriate policies and procedures which are regularly reviewed and reflect good practice; regular reporting on performance, finance, risk and project management; internal audit; corporate statutory officers; and overview and scrutiny, audit and standards committees.

    1.4. Our mapping of the framework has shown that, in a minority of places, there have been multiple failures of these controls which have led to a lack of action to address problems.

1.5 In some circumstances, the problem may arise from external pressures which may not be within the authority's power to resolve.

1.6 There is a need to have sufficiently skilled officers in key positions and teams tasked with managing internal controls: there are recruitment and retention issues in some services within local government, including finance and internal audit.

1.7 Organisational culture may inhibit an effective response to problems. This can reflect a lack of accountability, openness and/or self-awareness, and can be manifested in e.g.: poor councillor-officer relations; a lack of attention to internal controls; a blame culture and/or perceived unsafe environment in which to raise concerns; and a lack of openness to external challenge.

2. **Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?**

2.1. English councils are legally required to maintain a code of conduct and register of interests for councillors and arrangements to consider and decide on allegations of breaches in the code. The code applies to councillors as soon as they accept the office and continues until they cease to be a councillor. It only applies when they are acting in their capacity as a councillor.

2.2. To support councils in this area, the LGA has produced a [Model Councillor Code of Conduct](#), underpinned by the Seven Principles of Public Life, with associated [guidance and training materials](#) on the code itself and handling of complaints relating to councillor conduct.

2.3. The LGA has commissioned guidance to support training for councillors on standards committees considering code of conduct complaints.

2.4. There is no legal requirement for councils to have a code of conduct for officers. However, most councils have voluntarily adopted officer codes of conduct as part of their broader governance framework, which, among other things, support adherence to the Seven Principles of Public Life.

2.5. Professional bodies also play an important role in ensuring that council officers act in accordance with the Seven Principles of Public Life. For example, the Chartered Institute of Public Finance and Accountancy (CIPFA) promotes professional ethical standards among its members by providing guidance, training, and accreditation programmes, whilst also sanctioning members for misconduct where they are found to breach its Code of Professional Ethics and Code of Practice. For local government lawyers, the Solicitors Regulation Authority, the Chartered Institute of Legal Executives, the Law Society and the Legal Services Board have roles in standard-setting and qualifications, and Lawyers in Local Government (LLG) provide training.

2.6. To support the highest standards of behaviour and performance in public office, the LGA provides a series of comprehensive [councillor development programmes](#).

2.7. The LGA also works with Solace to provide leadership training and development to chief executives, which includes consideration of the application of the Seven Principles of Public Life in their roles.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

3.1. Data plays an important role in helping councils to identify risk, assess potential impact, identify performance trends and carry out comparative analysis.

3.2. The LGA's LG Inform benchmarking tool provides local authorities with data and benchmarking information. It brings together data through over 12,000 metrics from more than 200 data collections and includes more than 85 readymade thematic reports. It is free to use and available to the public, receiving over 580,000 page views every year. This information enables councils to assess and compare their performance against peers, identify areas of potential underperformance and make informed decisions to improve service delivery and manage risk effectively.

3.3. In relation to financial risk, the tool measures potential areas of concern including budget deficits and debt levels. Analysis of these indicators and trends can help councils to make informed decisions, seeking to build financial sustainability and resilience in the delivery of public services.

3.4. The LGA offers a range of resources to help councillors and officers deliver effective performance management, using data to inform actions that will improve outcomes for residents.

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

4.1. A proactive, whole organisation approach to assurance is necessary to identify patterns and problems that need addressing, to enable the development of appropriate improvement activities. The LGA's case studies provide examples of authorities which take this whole-authority approach.

4.2. The use of peer challenge enables local authorities to gain an external perspective which can identify issues or highlight known problems requiring action.

4.3. The LGA has developed the improvement and assurance framework to support local authorities to consider the full range of controls they should be using to identify issues. The framework has been promoted across the sector.

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

5.1. Clear governance structures which are regularly reviewed, and regular reporting of performance, finance and risk support effective oversight by councillors and accountability to the public and stakeholders.

5.2. All local authorities are required to conduct an annual review of the effectiveness of controls in the organisation and publicly report the findings of this review and the actions they are taking to address areas for improvement in their annual governance statement. By ensuring that this review is conducted robustly and honestly, each authority can test the effectiveness of oversight and controls.

5.3. The LGA's member and officer development programmes promote the importance of fostering open and transparent communication and engagement in local authorities between cabinet/committee chairs and senior officers and with the public and stakeholders to facilitate information exchange and feedback in an open, honest and accountable way.

5.4. There are three corporate statutory officers within all councils, the head of paid service, chief finance officer and monitoring officer, who each have distinct legal roles and responsibilities and work together to ensure the effectiveness of the council's corporate governance and assurance. These officers work closely with the council's members and other officers to ensure that the council's activities are lawful. CIPFA, Solace and LLG have consulted on a draft code of practice for how these roles should work together as the 'Golden triangle' and we look forward to the final version which will provide helpful guidance on the practices and behaviours required in these roles.

5.5. A comprehensive overview of the structures and practices which ensure effective oversight within councils can be found within the improvement and assurance framework for local government.

5.6. Training and development opportunities for councillors and officers are important enablers for good practice in proper oversight, by enhancing their knowledge, skills, and understanding of their roles and responsibilities. The LGA provides training for leaders and portfolio holders, audit committees and scrutiny members to support them to develop their expertise in their roles.

5.7. Councils conduct their business in the most open and transparent way of all public authorities. Decisions are based on openly available written advice, and an overwhelming majority of decisions are made in public meetings. Full Council approves the annual budget in public, external audit reports and any findings of maladministration are considered in public meetings.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

6.1. Local authorities should follow guidance produced by CIPFA/Solace when conducting their annual review of the effectiveness of controls, and the outcome of this review should be documented clearly and transparently in their annual governance statement.

6.2. Best practice includes ensuring that there has been engagement across the council to inform the review, and that statements are easily understood and accessible to residents, partners, government, external auditors, inspectorates and regulators. Statements should openly and honestly identify issues and remedial actions, and provide an update on progress in addressing issues previously identified. The audit committee will review the draft statement before it is finalised, providing challenge to ensure that it is honest and robust. The content of statements should inform the internal audit plan for the next year.

6.3. In making political and managerial choices, local authorities must ensure both delivery and compliance with good governance in addition to well managed risk taking and innovation.

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

7.1. Robust political and managerial leadership is vital for ensuring that a culture of blame does not develop in a council, focusing instead on opportunities for organisational learning. Where senior leaders set the right culture, employees will have the confidence to speak up about genuine concerns. This includes ensuring that the organisation takes complaints and performance improvement seriously. There should be recognition that errors will occur, and that speaking up about them is everyone's responsibility: where they happen, they should be considered as systemic issues and opportunities for improvement.

7.2. Ensuring the effectiveness and awareness of a whistleblowing policy that empowers employees to disclose any serious wrongdoing or unlawful conduct without fear of victimisation is vital. Regular review of the policy and supporting training and communication is essential.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

8.1. Openness to external challenge contributes to honesty and openness. The LGA facilitates a programme of corporate peer challenges (CPCs) for councils, where a team of member and officer peers from local authorities provide 'critical friend' challenge on the themes of: local priorities and outcomes; organisational and place leadership; governance and culture; financial planning and management; and capacity for improvement. CPCs are recognised as an effective tool for identifying any cultural and relationship weaknesses in councils and recommending improvements that help to mitigate individual or systemic risks. The Government has set out its expectation in the Best Value Standards that all local authorities have a corporate or finance peer challenge at least every five years, to help identify any issues an authority might be facing and suggest possible solutions.

8.2. Following each CPC, a report outlining the key findings and recommendations from the peer team is shared with the council. In the spirit of openness and transparency, councils are required to publish this report, alongside an action plan, within three months of the CPC. If the council is unable to publish the plan with the report, it is required to publish the plan no later than five months after the CPC. In 2023/4, 61 CPCs were conducted: reports are also published on the LGA website.

8.3. All local authorities are also required to comply with the Transparency Code.

8.4. Decisions are based on openly available written advice, and, as required by legislation, the overwhelming majority of local authority decisions are made in public meetings.

Submission 15, Kathryn Moore

0.1 This is a personal submission. I was a parish councillor in North Norfolk. I am now a parishioner.

0.2.Reason for Submitting Evidence

0.2a During my short tenure as a Parish Councillor I witnessed many instances of standing orders, financial regulations & conflicts of interest being ignored and a frequent disregard for NOLAN principles. This culminated in myself, together with 3 other councillors, raising a code of conduct complaint with the District Council Monitoring Officer. Adjudication took nearly 7 months. The response only came after a formal complaint was raised with the District Council for the MO process taking so long. There is no right of appeal to the result.

0.3 Summary

0.3a My opinion is based on my own experience as a parish councillor and as a parishioner, from hearing reports from other parish councillors across the country, and from reading about issues on the Councillor's Corner Facebook page. In short I believe that there is a systemic problem with Parish Councils. Increasingly I am of the view that the burden on unpaid volunteer councillors is too great. That they fail to read thoroughly the huge quantity of paperwork. They therefore make ill informed decisions. The expectation on clerks to be knowledgeable across a huge number of subjects is unrealistic in 2024. Due diligence suffers. The burden on District Councils, in terms of time and money, dealing with complaints about Parish Councils is too great. **Hence parish councils should be abolished and their work & responsibilities absorbed into the District Council where there are more robust procedures, better auditing and paid, full time specialist staff working to elected councillors.**

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

1.1 Firstly many councillors fail to recognise signs of problems. They ignore, whether mendaciously or out of ignorance, standing orders, financial regulations, conflicts of interest and NOLAN principles. With long standing councillors, they become set in their ways and take personal umbrage when challenged. When there are factions, which so often occurs, the challenger is out voted and their opinion dismissed out of hand. Lax behaviours persist and due diligence is not done.

1.2 Complaints about the behaviour of parish councillors or employees of the parish council, should be addressed to the council chair in the first instance. But self-regulation is problematic, particularly if the complaint involves the chair themselves, their acolytes or an opposing faction.

1.3 There is a tension between councillors who come from a business world where there are strict procedures and strong internal auditors are the norm and those that don't have that background and fail to understand what is expected.

1.4 The role of the Clerk demands administrative and organisational skills, IT literacy, good communication, the ability get on with most people and sometimes staff management. Their primary responsibility is to advise whether council decisions are lawful and to recommend

how decisions should be implemented. They therefore have to give clear guidance to councillors, including the chair, even when that guidance may be unpalatable.

1.5 It is unreasonable to expect one person, the clerk, to have such breadth of skill and sufficient knowledge across so many subject areas – the law, local government, health and safety, RoSPA, HMRC rules, data protection, freedom of information, financial auditing – such that they can recognise, let alone direct a council to address problems.

1.6 The amount of work a clerk is expected to do, when many are part time working across multiple Parish Councils (another potential for conflict of interest) is that due diligence is not thorough. Where this compromises insurance and adequate risk management, public liability is at risk.

1.7 A clerk can seek advice from the National Association of Local Councils. However, there remains a significant risk that they may, albeit in ignorance or over confidence, they give erroneous advice or no advice at all. This could have significant financial repercussions, especially if legal redress follows.

1.8 The clerk's employment is subject to the whims of the council, and especially any councillors that appraise their performance. This makes the clerk vulnerable to being manipulated or bullied. It also places them in a difficult position if they disagree with certain councillors who appraise them.

1.9 Clerks control the Full Council agenda. This must be stopped. It encourages a misplaced sense of power. If a clerk personally dislikes a proposal there are occasions when it is deliberately omitted from the agenda.

1.10 In my Parish Council the public are instructed by Clerk or Chair they may only raise issues in the public speaking time that are about topics on the agenda. This gags parishioner engagement and their ability to raise issues outside the agenda.

2*. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?*

2.1 Regular appraisals. But this is not appropriate to a Parish Council of volunteers nor could such a mechanism be employed in such a small group of councillors. In contrast a District Council has effectively a civil service of staff. They are subject to a formal HR process by trained HR professionals. Hence Parish Councils should be disbanded and their role given to the District Council.

3. *Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?*

3.1 Data can play a pertinent role. But not within a Parish Council setting. The Clerk has too much on their plate already. Councillors can't even thoroughly read their papers let alone deal with data. It takes a specialism. Introducing a Data Officer is not the answer at the Parish level. There is too greater a risk of no oversight that their understanding, analysis and manipulation is correct. In contrast a District Council might have the resources to adequately provide efficacious data and AI services. Hence Parish Councils should be disbanded and their role given to the District Council.

3.2. Similarly the understanding of risk management is weak inside many Parish Councils. Risk management is a skill in its own right. Today's parish councils deal with significant sums

of money. Litigation is rife. The understanding of public liability is poor as is recognising risk. As above, reliance on the understanding of a Clerk or RFO (or untrained councillors) to identify and manage risk is insufficient in 2024. In contrast District Councils have the skilled staff.

4*. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?*

4.1. Most large business have regular and feared auditors who scrutinize process, procedures, finances and decisions. District Councils have a quasi civil service (their paid staff) whose expertise builds up such processes. Their auditors have a separate reporting line to the CEO and Councillors thus giving them independence. None of this occurs in a small parish council nor is it is possible. Worse a cosiness develops between the Parish Council and their accountants, internal and external auditors. Hence I have seen fundamental mistakes perpetuate year on year because of the lack of due diligence or because of the flawed evidence provided.

4.2. Furthermore the auditors who perform the AGAR or submissions to the Charity Commission where a Parish Council is a trustee are subject to the accuracy of the information provided by the Parish Council. Rubbish in – Rubbish out.

5*. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?*

5.1. Parish Councils – None. Disband them.

5.2. It is recognised that due to the systemic problems in Parish Council, an inordinate amount of time is spent by the District Council Monitoring Officer dealing with Parish Council complaints. Where the MO role is undertaken by a 3rd party legal firm this is a financial drain on the District Council and all the more so, given the process at present relies on a "he said she said" approach. Without more rigour and cross examination or a mediation meeting, too often the MO just takes the Parish Council's side. The lack of sanctions that can be applied to Parish Councillors is another problem and bad behaviour persists.

5.3. District Councils typically have procedures, HR and independent and neutral staff to investigate complaints within their own organisation. Hence don't waste time trying to fix an unfixable problem in the Parish Council set up. Disband Parish Councils and their role & responsibilities to the District Council.

5.4. The Government's view is that parish councils are accountable to their electorate principally through the ballot box. Elections every four years, when in far too many cases parish councillors are elected unopposed or co-opted is flawed.

5.5. While parish councils are typically politically neutral, one advantage of having politically appointed candidates at the District Council level is that there is some form of scrutiny, albeit imperfect, of the candidate.

5.6 If a council's decision is unlawful, it can be reversed by judicial action. But most issues relate to code of conduct breaches, questionable financial management and a disregard of operating rules – actions that are inappropriate and unprofessional but not unlawful. Or, are about a council's difficulty dealing with parishioners and ex-councillors or vice versa.

5.7. It is unreasonable to expect parishioners with limited funds to go to court to settle an issue with their parish council.

6. *How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?*

No comment

7. *Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?*

7.1. In a Parish Council, village situation this is not possible. It can be too close to home. Parishioners and ex-councillors are easily vilified. Portrayed by those remaining in position as "failing to understand the situation", "Unable to stand the heat", "good riddance to them – they did nothing to support the council". All further reasons why Parish Councils have had their day and should be disbanded.

8. *The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?*

8.1. No. From Westminster down, there is blatant disregard for NOLAN principles.

8.2 In my experience conflicts of interest are completely ignored, even when they are recognised -which is rare. Spouses vote for spouses on matters that directly affect them. Councillors approve, even first or second, financial payments to their relatives.

8.3. I am aware of a case where the clerk raised a grievance against 3 parish councillors. One of the cited councillors was instructing the legal team, liaising with employment advisors on how to handle this matter. Moreover they were committing many thousands of pounds on their fees without pre-approval from the Full Council and contrary to the Financial Regulations. In no way should this conflict of interest be acceptable and any liaison with legal or employment advisors should have been done by a councillor unnamed in the grievance.

8.4 Part of the issue is that in a small group such as a Parish Council things get very personal and councillors forget their duty is to community and not to self preservation. Parish Council become little fiefdoms. And with co-opting and unopposed elections, these fiefdoms persist. Such behaviour is less prevalent in a District Council. This is a further reason why Parish Councils have had their days and need to be disbanded and their role and responsibilities absorbed into the government tier above.

Submission 16, National Association of Local Councils (NALC)

Introduction

We are writing in response to the Committee on Standards in Public Life consultation on public bodies' accountability.

The National Association of Local Councils (NALC) is the national membership body that works with the 43 county associations of local councils to represent and support England's 10,000 local (parish and town) councils.

Local councils and their 100,000 councillors are the first tier of local government, closest to the people, and play an essential part in delivering hyper local services, building strong communities, and strengthening social fabric.

Local councils cover more than 90% of the geography of England and over a third of the population and invest over £3 billion per year to improve and strengthen communities.

Summary

- England's 10,000 local (parish and town) councils are the first tier of local government and are locally accountable public bodies. We have attempted to consider the behavioural (i.e. blame) and structural (i.e. financial) aspects of failure within public bodies in framing this response.

- The vast majority of local councils are well run and take ethical standards seriously. However, the current standards regime not only lacks effective sanctions, but in many cases the 'regulators' (i.e. monitoring officers and standards committees) lack the organisational capacity to promote, monitor and maintain ethical standards. In short, the current regime needs more "teeth".

- The use of criminal sanctions in cases of disclosable pecuniary interest infringements is not a significant factor for the local council sector as the role of these bodies is largely advisory. There is a growing lack of confidence in the ability to change behaviour that falls below the accepted standard. Councils are frustrated that there is nothing they can do to change the actions or attitudes of certain persons be they councillors, council staff or members of the public.

- There should be more basic training of councillors and council staff on the standards regime. The Local Council Award Scheme (LCAS) managed by NALC is a programme which seeks to establish best practice and improve standards across the local council sector. The scheme consists of 3 award levels and councils are invited to apply for any level that they wish to, either working their way up through each level or in the first instance aiming for one of the higher levels. Each award lasts for a period of 4 years. The National Improvement Strategy represents a national commitment to training in the local council sector shared by national, regional and local stakeholder organisations. There needs to be far more investment from central government in the improvement agenda at local council level. For instance, the

Civility and Respect project is mostly funded by NALC and SLCC and does not receive any government funding through the £18 million grant currently provided to the Local Government Association for sector support and improvement.

- We have also long called for the Local Government and Social Care Ombudsman to cover the local council sector. The opportunity should be found to achieve additional capacity and economies-of-scale in local standards regimes through the voluntary pooling of resources within county areas by principal authorities.

- The Nolan Principles as a current standard for local councils to espouse in principle do not require amendment in our view. They are core and fundamental to the principles of the Civility and Respect project led by the National Association of Local Councils, One Voice Wales and the Society of Local Council Clerks, because there is no place for bullying, harassment and intimidation within our sector. The pledge is easy for councils to sign up to and it will enable councils to demonstrate that they are committed to standing up to poor behaviour across our sector and to driving through positive changes which support civil and respectful conduct.

- NALC fully supports the implementation of all of the main recommendations from the Committee on Standards in Public Life 2019 report on Local Government Ethical Standards and thinks that the incoming government should implement them in full.

Consultation questions

NALC has engaged with its partners and stakeholders to inform our response to this consultation, and we have defined local (parish and town) councils as public bodies for the purpose of this response. We have attempted to consider the behavioural (i.e. blame) and structural (i.e. financial) aspects of failure within public bodies in framing this response.

NALC's responses to the main consultation questions relevant to local councils in the consultation document are below:

Q1. Local councils are significantly different to many public bodies because of their size. Most only have one part time member of staff and less than 10 elected members that may only meet every other month. This can result in a slow response to the first signs of a problem. NALC heard from local councils completing its related sector survey that a lack of acknowledgement that there is a problem on the council and a lack of knowledge as to how to resolve these problems, were the main reasons why local councils might fail to act quickly at the first sign of a problem within their organisation. The local council sector does provide a professional support network through our 43 County Associations and NALC. Our county associations can assist local councils in their membership with analysing the challenges and identifying the solutions.

Q2. Local councils have to be open and honest, share information and create a transparent culture for the Nolan principles to apply. The Civility and Respect pledge is key here. The role of chair of the council is important for setting the tone. There should be more basic training of councillors on the standards regime.

Since the National Improvement Strategy for Town and Parish Councils was published in 2016, there has been no direct investment from the government to support the delivery of its

vision and initiatives. This contrasts with the £18 million a year of funding for sector support provided by the Department for Levelling Up, Housing and Communities (DLUHC) to the Local Government Association (LGA).

This underinvestment by the government leads to constraints in increasing the sector's efficiency, securing improvement, and unlocking performance that only the government has the policy and financial levers to help with. The government should provide NALC directly with a share of funding to support local councils, this could be provided from a proportion of the funding retained by the government when funding to LGA was reduced.

Q3. Financial data is something which a local council should be able to generate for itself, to an extent is required to, and should govern its financial management decisions to avoid corporate and pecuniary failure. In the sector survey NALC recently undertook on standards, most local council respondents stated that they sometimes used data to help them manage public services successfully. For behavioural issues, county associations are the key body available for local councils to consult. In Yorkshire, there are regular updates on casework issues and in areas being dealt with. Internally at county associations, data drives much of the actions and decisions that are taken. County associations are best placed to collate this data at a more local level.

Q4. Many local council respondents to the NALC standards sector survey confirmed that they were insufficiently aware of what processes they had in place for identifying patterns and spotting problems that need addressing. The relevant county association will generally have excellent processes in place for identifying, responding to and providing action plans for local councils in its area which are in some way failing and require urgent support. For example, the Warwickshire and West Midlands county association offers monthly meetings for clerks only, providing a safe place to discuss issues, and a monthly meeting for chairs. The Yorkshire Local Councils Associations also offer councillor and clerk support sessions. Society of Local Council Clerks (SLCC) branches have some similar processes. Issues identified early often flag up bigger issues within a council.

Communication is key; councils need to listen to their residents.

Q5. For this answer NALC has assumed that the full council of a local council is the equivalent of its board. Most local council respondents to the NALC sector standards survey confirmed that councillors attending full council meetings and reading the Practitioners' Guide, The Good Councillors' Guide and The Good Councillors' Guide to Finance are the two most common practices and behaviours used by local councils to ensure that they have proper oversight of their organisation.

Councillors should brief themselves fully on the contents of the agenda for local council meetings, read council reports and be prepared to ask questions. Councillors must overcome any reluctance to question the clerk or the chair, it is important that councillors hold the council's officers to account for their actions. As soon as new councillors, clerks and chairs are in post they should be offered a one-to-one meeting, offered finance training and have a journey pack.

Q6. The Local Council Award Scheme as detailed in our answer to Q2 is an example of best practice although participation is optional. All local councils are subject to some level of external scrutiny of their financial systems, including whether there are appropriate management systems in place, with the detail being influenced by the income level. Other than for their financial activities, local councils are not subject to annual effectiveness checks, but they are subject to public scrutiny every 4 years through the electoral process.

LCAS is a better way of monitoring this than audit, though, as it requires rigorous assessment.

Q7. About half of the local council respondents to the NALC sector survey on standards stated that they thought their local council currently had a culture where people felt safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned. It is critical for local councils to start building a new culture at and during the local council elections. Openness and transparency are key so as to avoid defensiveness, denial and delay.

Q8. There are some good examples of local councils being transparent about how they operate and the decisions they make on behalf of the public. Local councils at different spatial levels are covered by the Transparency Codes which ensures a wide range of council information is published online. There are also examples of local councils who have used processes such as the Local Council Award Scheme to turn around a failing organisation. For instance, Bingham Town Council have had to have an intervention but have now achieved the Foundation Level of the award and are moving with the aim to achieve the next level up. Much of this can be tackled with training. The SLCC also offer advice and support. We have also highlighted the other examples from the Warwickshire and Yorkshire county associations, too, in earlier answers to this consultation response.

Submission 17, Counter Fraud Authority, NHS

1. **What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?**

Lack of transparency at senior/Board level. Poor reporting culture or a culture where speaking up is not encouraged and supported. Lack of clarity on accountability and responsibility impacted by silo working.

2. **Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?**

NHSCFA encourages reflection of LIFE principles (local variation on Nolan Principles) in decision making.

3. **Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?**

Use of trend analysis and benchmarking against equivalent data dets to establish comparators.

4. **Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?**

No

5. **What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?**

Engaging in workshops to explore key approached to activities rather than just relying of formal Board papers. Engagement with workforce at all levels

6. **H**ow should public sector bodies conduct their annual board effectiveness **evaluations? What does best practice look like?**

It would be helpful to have additional standardisation to this approach. The effectiveness is heavily impacted on the time restraints on advertising and gaining Ministerial approval for public appointments

7. *Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?*

Improved implementation and financial support for Freedom to Speak Up initiative, review of Public Interest Disclosure Act 1998

8. **The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of**

the public. Are you aware of any examples of organisations exhibiting good practice in this area?

No

Submission 18, Helen Noll

I am writing on behalf of myself as a Parish Councillor in Lambourn, West Berkshire and not as a representative of the Lambourn Parish Council.

- Accountability as a public officer immediately puts that person in the firing line of being scrutinised, not only on their decision making but on how they hold themselves in the community that they serve. It should be anticipated that your choices outside of the public body you serve will also be considered fair to comment on.

- Knowing the decision maker, having a position or name is not enough. The photo of the person holding the role should be readily available to allow for transparency as to who that decision maker is.

- Be prepared to justify your decision making, to give valuable insight that the wider community you are serving full disclosure of why decision are made if asked for. Reply in earnest to this enquiries to ensure that the are shown to be valuable enquiries.

- Timelines and timeframes, things are all so often kicked into the long grass and left, phrases like 'we are looking into it' or ' a meeting will be held and we will inform you'. These are not answers to questions but delay tactics, give a deadline and strive to get the work needed completed in that timeframe.

- If data already exists, do not keep repeating enquiries and pilot schemes until you find a scenario that suits your decision making. This wastes time and resources be honest with the data, transparent.

Submission 19, Northern Ireland Public Sector Chairs' Forum

Introduction

1. The Northern Ireland Public Sector Chairs' Forum (PSCF) is the membership body for Chairs and Non-Executive Directors of public bodies across Northern Ireland. The Forum is member-led networking and information sharing resource, which currently has over fifty members. Collectively, the organisations Chaired by Forum members are responsible for two thirds of the NI public sector spend. Our membership is diverse and covers large public sector organisations, such as the Education Authority (EA), as well as smaller organisations such as the Arts Council.

2. This is a submission to the Committee on Standards in Public Life's open consultation on 'Accountability within Public Bodies'. Our response has been drafted by members of the Forum and will address each question in turn.

3. The Forum's Committee took the decision to submit a consultation response because, as public sector Chairs, we are keen to contribute to the understanding and improvement of public sector governance.

4. For more information on the Forum, and its work, please visit: http://www.publicsectorchairsni.com.

Response to consultation questions

Question 1: What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

5. We believe a range of factors may lead to public bodies being slow to respond to issues when they first arise. The overarching organisational culture within a public body can be a crucial factor, especially if the culture being fostered is one that is slow to act; defensive and overly protective of potential legal liability; and/or organisation focused rather than customer / service user focused.

6. Other contributing factors may include:

   - Inadequate communication channels for escalating concerns quickly internally.
   - Confusion within (complex) organisations about who is responsible for dealing with specific issues and problems, which means they are not investigated immediately.
   - Failure to have adequate policies and procedures in place to identify problems at an early stage. For example, lacking a 'Raising Concerns Policy' to streamline processes, which also applies to the public and is not restricted to staff.
   - Failure to adequately monitor, at board level, the implementation and compliance of crucial policies related to whistleblowing and raising concerns. There can also be a lack of alignment between the senior executives and board members on these issues.
   - Lack of effective oversight of the Corporate and Operational Risk Registers to ensure they are kept up to date, are relevant, and have visibility at board level.
   - Failure to recognise that a low level of whistleblowing and complaints being raised is not necessarily a positive thing – instead it can be just as indicative of systemic failures as these being at a high level.

- Failure to deal with whistleblowing and concerns when they are raised - hence why board / committee monitoring is so important.

10. It is crucial that public bodies do not overlook learning from previous experience and good practice, both inside and outside of the organisation, as this can also lead to failings. This includes implementing recommendations from external reviews of organisations. For example, the Francis Report[9], the RHI inquiry report[10], and the independent review of Invest NI.[11] Good practice specifically on raising concerns is set out in 'Raising Concerns: A Good Practice Guide for the Northern Ireland Public Sector'.[12]

11. We would recommend the introduction of a mechanism to ensure that public bodies are held to account for implementing recommendations from major reviews and inquiries. This could be led by a dedicated oversight body and/or form part of the public bodies' reporting and governance processes – e.g. they could be required to report on the implementation of recommendations within their annual report each year.

Question 2 - Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

12. It is important that the Nolan Principles are modelled at board level, as well as across the organisation as a whole. Efforts should also be made to encourage constructive criticism and diverse points of view as part of a wider board culture. It would also be helpful if these behaviours were modelled by everyone in the public sector, including elected representatives.

13. Policies and procedures should reference selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Likewise, these principles and other organisational value should be embedded within decision making approach and analysis of risk. For example, one arm's length body (ALB) in Northern Ireland makes decisions based on protecting the most vulnerable. It is also good practice for public bodies to have a dedicated 'Ethics Policy' in place.

14. It is important that there is timely completion of a 'Declaration of Interests' form both by members and by relevant staff. Declarations of interest should be declared at the start of each board meeting, and a process should be agreed for managing real or perceived conflicts of interest. It is the role of the Chair to ensure declarations are made in a timely manner in the context of what is on the agenda.

---

[9] The Francis Inquiry report was published on 6 February 2013 and examined the causes of the failings in care at Mid Staffordshire NHS Foundation Trust between 2005 and 2009. Available here.
[10] An inquiry was conducted into the NI Renewable Heat Incentive, a failed renewable energy scheme introduced to NI in 2012. The initial inquiry report is here, while a follow-up report on progress in implementing recommendations arising from the inquiry is here.
[11] An independent review of Invest NI was launched in January 2022. The resulting report is available here.
[12] Available here: https://www.niauditoffice.gov.uk/publications/raising-concerns-good-practice-guide-northern-ireland-public-sector.

15. Recruitment interviews should be designed to assess the Nolan Principles, rather than paying lip-service to them – i.e. requiring a candidate to give specific examples of when they have exhibited these values.

16. Currently, there is no detailed framework that can be used to embed the Nolan Principles into everyday workplace activities – the development of one would be beneficial to public bodies.

Question 3: Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

14. It is vitally important that those charged with governance understand the complex information that is being presented to them and that they are in a position to make a meaningful evaluation of it. To aid in this, suitably qualified data analysts or operational staff members should be made available to present complex data to the board to provide clarity and explain what the data means, rather than members being given the information without sufficient context or explanation.

15. Data insight will drive the assessment of risks and the options taken when considering and deciding on appropriate mitigating actions. It is important to have processes set in place so that risks can be properly evaluated with quantitative indicators and qualitative indicators. Data provided to boards needs to be succinct and strategic, rather than extensive and generic. Additionally, it is useful to identify the 'risk appetite' of the board as this will vary across membership and will affect how the data is received by them.

16. Continuous training on data literacy should be provided to relevant staff members within public bodies to ensure they can effectively interpret and use data, and present this at board level when necessary.

17. Some ALBs in Northern Ireland already assess the progress of project delivery by focusing on outcomes and impact. Data is used to assess these outcomes. The annual business plans of both organisations link the strategic objectives to in year activity – thus allowing the progress of various projects to be assessed using data. Achieving strategic aims therefore requires holistic oversight of the organisations' various activities, which can be challenging, but means everything is being carefully tracked and evaluated.

Question 4: Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

18. Public bodies should consider what their 'frontline defence' looks like - one core aspect of spotting problems at an early stage is ensuring that frontline managers and middle manager have processes in place to help them identify patterns and problems, which can then be escalated to the Senior Management Team (SLT) as needed.

19. Organisations that have adopted Internation Organisation for Standardisation (ISO) codes of practice and other good measurement tools (such as Investors in People surveys) are less likely to be surprised by internal audit issues and potential impacts of a cultural problem, such as sudden increases in absenteeism. Additionally, the way that safeguarding and health and safety performance reporting is structured

should provide good examples of vertical and horizontal pathways for monitoring emerging issues.

20. Properly targeted terms of reference (ToR) allow the Non-Executive Directors (NEDs) to get to a level of detail and scrutinise the organisation. In turn, this allows the identification of issues at an early stage by having effective oversight and focus of specific areas within the organisation. The committees gain greater understanding of what is happening within the defined areas so can spot trends more easily.

Question 5: What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

21. A proper board cycle should be in place to ensure that the board does not miss any crucial information during the year and that proper time is allocated to discuss issues. The board / committee agenda should be linked to the risk register, ensuring there is proper discussion of major issues that could affect the organisation at board level.

22. Organisations should understand and embrace the importance of diversity and independence on boards to avoid groupthink, including considering diversity when recruiting for new board members.

23. There should be a practical, biannual meetings between the Board Chair, Committee Chairs, CEO, and ELT. These meetings should take the form of a verbal 'light touch' check-in on reporting pathways, with a particular focus on the effectiveness of calendarised meetings and consideration of how live and meaningful feedback can be conveyed to the board.

24. On an annual basis, organisations should conduct a board and committee 'effectiveness review' to ensure they are capturing all areas of the business and nothing is 'falling between stools' or being duplicated - an experienced board Secretary can facilitate this. There should also be an annual review of the 'Scheme of Delegation', which sets which powers are reserved to the board and which are delegated to staff. This will determine which actions are taken at board level. It is crucial both board members and staff members understand the specific nature of their role within the organisation.

25. Likewise, the organisation's 'Assurance Framework' should be reviewed annually to ensure that new or emerging risks are being identified. This will also ensure any new functions that are added to an organisation by its Sponsor Department are captured within the framework. Ideally, board members should have access to an up-to-date list of the organisation's functions, as well as the powers granted to the organisation to carry out these functions. This information should also be reflected in the Scheme of Delegation.

26. Furthermore, the Memorandum / Partnership Agreement that details the relationship between the Sponsor Department and the organisation should be reviewed regularly (every 12 to 18 months) and provided to the board when updated. The board should have assurance the Memorandum / Partnership Agreement accurately reflects the legislative framework that established the organisation, and that there is a power in the enabling legislation which allows for the organisation's board to delegate its powers to staff.[13]

---

[13] See McKee v CCNI [2020] NICA 13

27. Finally, all board members should be familiar with the financial and management statements, risk management framework, performance framework, people strategy, committee terms of reference. partnership agreement, and internal audit reports. Training on these materials should be provided when necessary.

Question 6: How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

28. It is important that systems for measuring effectiveness do not become overly burdensome for public bodies and their boards as an annual exercise. When this process handled badly, it is a good example of departments not allowing ALBs to govern themselves via good practice and with accountability. The process for evaluation set out in partnership agreements should be practical, useful, and achievable.

29. The NI Audit Office produced a 'Board Effectiveness - A Good Practice Guide' in 2022 where there are sample templates for assessing Chair and Board Members.[14] On page 66 there is a useful checklist which board members should ask themselves. On page 70, there is the suggestion that the chair should seek feedback from members after each meeting or have regular, short pulse surveys, (i.e. what did the board achieve today; was the evidence presented sufficient to make an informed decision; were all members afforded the opportunity to contribute; were effective challenge and scrutiny questions asked).

30. A board member should be appointed with responsibility for ensuring ongoing improvement and creativity in the way the board operates, including ensuring members are aware of the method for raising concerns or suggestions. Board members should be asked to complete regular self-assessments to challenge each member to critically evaluate their own performance and identify areas for short-term improvement.

31. Boards should also collectively review their practices on a regular basis and identify areas for development. For example, the following process could be used:

- Review of the NEDs by the Chair;
- Review of the Chair by the NEDs (anonymous);
- Review of the Board by the NEDs (anonymous).

The information and feedback gathered can then be used to generate a development plan for each NED and a board-wide effectiveness development plan, as well as making the Chair aware of any issues.

32. External reviews of board practice should also be conducted at regular intervals (perhaps every three years) using an external facilitator for unbiased assessments.

33. In some instances, it may be more appropriate for a CEO to not be a board member, or for the board to hold closed sessions during which the CEO is not present. Not having this space can undermine effectiveness when it comes to lines of accountability. When a CEO is both a board member and Accounting Officer (AO),

---

[14] Available at
https://www.niauditoffice.gov.uk/files/niauditoffice/documents/2022-06/273004_NIAO%20Good%20Practice%20Guide%20-%20Board%20Effectiveness%20%28June%202022%29.pdf

this can lead to confusion over where the accountability lies. The personal responsibilities of being AO are emphasised to new CEOs, which can make them consider that the board are accountable to them as the AO. However, you cannot have the board accountable to an AO and the CEO accountable to the board. Additionally, a CEO being a board member adds an unnecessary layer of confusion to roles / responsibilities. Often accountability issues are not properly addressed in the board assurance framework document.

Question 7: Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

34. Public bodies are inevitably influenced by the culture of their sponsor departments, which can be very risk averse - it is a difficult challenge to change this cultural mindset. Likewise, collaboration is often talked about as a good thing, but budget pressures put Departments and their ALBs into a competitive space with others and therefore silos continue. Sometimes change needs to also be led at the highest level, including elected representatives, to successfully transform organisational culture. It can, however, be beneficial at board level to have a strategic document / risk appetite that recognises that pushing for innovation involves the possibility of failure.

35. As already referenced above, the NI Audit Office produced a 'Raising Concerns: A Good Practice Guide for the Northern Ireland Public Sector' in 2020.[15] Members of the NIPSCF were asked to launch and promote this guide, our contribution having been acknowledged in it.

36. One ALB in NI recently reviewed its raising a concern and whistleblowing policy and procedures to ensure it was in alignment with the overarching NI Civil Service 'Raising a Concern Policy Framework.[16] This new policy more clearly defined the legislation and protections available, with clear links to the other organisational policies and procedures that provide protections for employees and facilitate the investigation of concerns that do not fall under the raising concerns policy, such as health and safety matters, data protection issues, complaints, and safeguarding concerns. The revision of the policy has set out the routes by which staff and the public can raise concerns in relation to the organisation. The policy also signposts how an employee can make a protected disclosure to organisations outside of the organisation. The ALB's board / committees are monitoring the dissemination and implementation of the new policy, including monitoring compliance with it. Cases should be followed through to a 'lessons learned' stage, which looks at how the organisation has responded in terms of delivering improved services and improved employer/employee relations.

37. Openness and interaction with staff members helps ensure they feel 'safe' to come forward with issues. It is crucial that employees are not penalised for whistleblowing and raising concerns. Boards / committees should monitor the dissemination of whistleblowing / raising concerns policies, as well as compliance with them. It is also important to ensure that good practice is recognised at board level and rewarded where appropriate, with poor behaviour only punished when necessary, e.g. because it involves fraud, bullying, harassment, etc.

---

[15] Available here: https://www.niauditoffice.gov.uk/publications/raising-concerns-good-practice-guide-northern-ireland-public-sector

[16] Available here: https://library2.nics.gov.uk/pdf/dof/2023/PDF230021.pdf

38. One ALB in NI has begun to have presentations from research and support staff at every board meeting, including the Head of Health and Safety. This has allowed the staff to see the commitment of the board to strong application of health and safety policy. As a result of this, the Head of Health and Safety feels able to report direct to the board on issues, which has allowed the board to intervene and seek clarification when needed. It can also be helpful to designate a board member as the 'raising concerns' champion

39. Finally, it is important that there are regular training and awareness programmes on the whistleblowing process, which are available to staff and board members as appropriate.

Question 8 - The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

40. Ideally, organisations should have public board meetings, which are advertised in advance, with the agenda and, where appropriate, previous minutes made available online. Board activity should also be recorded in the organisation's annual report. Some organisations may also wish to consider holding public board meetings. For example, some ALBs in NI have public board meetings open to all, while others allow their staff to come along as observers.

41. Transparent minutes should be recorded from meetings, which detail how decisions were reached as well as recording the decision taken. The NIAO Board Effectiveness Guide provides a Minutes template.[17]

42. Board / committees should play a role in monitoring Freedom of Information (FOI) and Subject Access Requests (SAR), including their frequency and how they are responded to. Thematic approaches may highlight an area of concern. For example, employees using FoI to obtain information from the employer should immediately call into question the employer/employee relationship.

43. Organisations should consider the use of tools that that enhance transparency, such as public dashboards, and keep up to date on the role of technology in making information more accessible to the public.

---

[17] See Annex 6:
https://www.niauditoffice.gov.uk/publications/html-document/niao-board-effectiveness-good-practice-guide-2022

Submission 20, Odiham Parish Council

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

Response

        i)   Differing views on reasonable behaviour,
        ii)   Lack of sanctions,
        iii)   Fear of creating conflict within organisation,
        iv)   Governance at parish/town council level doesn't give authority/powers to an individual councillor,
        v)   Political affiliations and support for members of same party.

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

Response

        i)   Governance and accountability training for all employees,
        ii)   A standard item on relevant agenda report which asks the author to make a declaration confirming the report and its recommendations have been written in accordance with NOLAN principles.

 1 3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

Response

        i)   Internal and external audit data and reports,
        ii)   Code of Conduct complaints,
        iii)   Customer surveys and complaints,
        iv)   Detailed and true/accurate financial reporting which includes money lost through bad debts, default payments, contract defaults and severance payments and employee severance payments.

 4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

Response

    Nothing specific but evidence of councils monitoring and reporting work schedules and progress using Modern.gov.

 5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

Response

        i)   Clear powers for overview and scrutiny committees to have sight of information,
        ii)   Independent and impartial members of overview and scrutiny committees which must be separate from executive/cabinet members,

iii)   Regular honest reporting of all activities including customer complaints,

iv)   Publication of Code of Conduct complaints.

v)   Detailed and true/accurate financial reporting which includes money lost through bad debts, default payments, contract defaults and severance payments and employee severance payments.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

Response

i)   Set clear targets to monitor,

ii)   Set clear monitoring criteria agreed in advance by council,

iii)   Include external responses, eg customer feedback and from third parties,

iv)   Include the findings of the internal and external auditors,

v)   Monitor performance, effectiveness and financial data,

vi)   Publish easy to read annual report.

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

Response

i)   Training for staff and councillors,

ii)   Clear policies and processes for reporting concerns,

iii)   Methods for anonymous reporting,

iv)   Clear policies to give assurance that concerns raised will be considered and responded to and not covered up,

v)   Support for monitoring officer to deal with complaints and advise the council without fear of repercussions,

vi)   Effective processes and record keeping to ensure reports of concerns and ongoing investigations are not lost following a change of administration.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

No Response

Submission 21, Protect

This is a submission to the Committee on Standards in Public Life from the whistleblowing charity Protect. We will address from the terms of reference points 2-4. For ease of reference the relevant points from the terms of reference are listed below:

2. How public bodies can support Parliament, regulators and other bodies to hold them to account on behalf of the public, including but not limited to making available the information necessary for them to do so effectively.

3. Best practice in managing risk within public sector organisations. We will look at how organisations can use data to analyse patterns, identify early warning signs and escalate issues of concern in a timely manner.

4. The role of boards of public bodies, including how they can maximise their effectiveness at providing timely challenge to the organisation.

Introduction

We welcome the Committee's timely review of accountability in public services. In the last year, the Post Office Horizon Computer scandal and the appalling crimes of Lucy Letby at the Countess of Chester Hospital, have shown the cost of failures to listen to early warnings of risk and harm – to individuals, to organisations and to the public purse. Whistleblowers play a vital role in holding organisations to account. There has been much focus on "speaking up", particularly in the NHS, but not enough attention is paid to listening to these concerns, acting on what is raised and learning from past mistakes. Too often when staff blow the whistle, whether it's in the NHS, education or the civil service, the response from management is defensiveness towards the concerns, and aggression towards the whistleblower.

There have also been challenges to the integrity of senior holders of public office in recent years and the tone from the top has been examined in the Committee's recent report on Leadership. However, there must also be mechanisms to ensure that public office holders are held effectively to account, including by civil servants who may identify wrongdoing.

As the UK's whistleblowing charity, we understand the valuable role whistleblowers play in identifying harm and risks and argue that the public sector is no longer leading the way when it comes to effective speaking up. Protect's response will focus on best practice in managing risk in the public sector, the importance of the board and learning from mistakes.

Boards need to take greater responsibility for culture, and to recognise the risks that accompany poor cultures. We propose that every public sector body ensures that one Board member be given the role of "Whistleblowing Champion" with responsibility for championing speaking up and developing supportive workplace cultures. Protect supports calls for senior

managers and directors to be held to professional standards, subjected to a fit and proper persons test and banned from holding senior managerial positions where it has been shown they have ignored or victimised a whistleblower (as recommended by the Kark review of the Fit and Proper Person Test).[18]

We also propose that changes are needed to ensure that civil servants have options to raise matters of serious wrongdoing outside of their departments: serious failures at the top should not require just the resignation of officials with no chance of the wrongdoing being addressed.

Background on Protect

Protect is the UK's whistleblowing charity, a leading authority on whistleblowing law and practice. Established as a charity in 1993, we have to date individually advised more than 50,000 whistleblowers and helped hundreds of organisations set up or improve their whistleblowing arrangements. Protect regularly provides evidence to Parliament and government departments. We have successfully intervened in numerous appellate cases involving the interpretation, scope and application of whistleblowing legislation. Protect is lobbying for legal reform of the Public Interest Disclosure Act 1998 as incorporated in the Employment Rights Act 1996 and has drafted new whistleblowing legislation. We have unparalleled insight and unique expertise in how whistleblowing works in practice.

QUESTION 2 How public bodies can support Parliament, regulators and other bodies to hold them to account on behalf of the public, including but not limited to making available the information necessary for them to do so effectively.

Regulators are key to holding organisations to account and protecting the public. For example, research from Unchecked UK found investment in regulations can yield benefits: they found that £1 spent on waste crime enforcement yielded £5.60 in economic, social and environmental benefits.[19] On top of this there is widespread public support for regulation with 65% of the UK public seeing regulation's role means 'public safety and security'.[20]

Whistleblowing is a key early warning system, before disasters or scandals really take hold and there are usually staff on the inside of an organisation who had early knowledge of the risk. These individuals can help hold their own public sector employers to account. Whistleblowing to regulators is also important in ensuring that public sector bodies are accountable for their actions.   The Employment Rights Act 1996 reflects this reality giving

---

[18] Kark review of the fit and proper persons test - GOV.UK (www.gov.uk)
[19] Unchecked Parliamentary Evidence to House of Lords Industry and Regulators Committee, *Who Watches the Watchdogs,* p.g.2 https://committees.parliament.uk/writtenevidence/126672/pdf/
[20] Protect or Deregulate?, Unchecked UK 2024 https://unchecked.uk/wp-content/uploads/2024/04/UnChecked_Protect-or-Deregulate_APR2024_V6.pdf

whistleblowers protection, when certain legal tests are passed, to raise concerns with regulators, MPs and the media. ⌷ In our experience, there are too many barriers for whistleblowers to contact relevant public sector regulators and inconsistencies in how whistleblowing is managed by regulators across the public sector. In our view, it would be helpful if there were clear standards on how to deal with whistleblowing concerns across the public sector and across regulators dealing with whistleblowers.

Patient Safety and the NHS

Complexity can be a barrier for whistleblowers, where their employer is unwilling, unable or not interested in dealing with the problem - it is not a given that the whistleblower will know which regulator to approach. In research we conducted with YouGov last year, only 4 in 10 workers identified a regulator as a place they could raise concerns apart from their employer.[21]

A good example of this issue can be found on patient safety issues in the NHS. The Infected Blood Inquiry summarised the problem well in their final report saying:
'Investigations and reports [into patient safety culture in the NHS] *have identified similar problems to those which this Inquiry has laid bare: not only a problematic culture, which does not put patient safety first; but too many bodies, with no one having an overall role with executive power or central influence; too much fragmentation leading to a confusion of approach and paralysis of decision-making.'[22]* The inquiry went on to recommend the patient safety system be simplified arguing for the creation of a single body with a focus on patient safety and creating risk management system to manage these risks. As it stands if we were to look at the England alone there is a Care Quality Commission, NHS England, the Royal Colleges, the National Guardian's Office and the Health Services Safety Investigations Branch. In Scotland there is a single Independent the National Whistleblowing Office (INWO)– that sets standards and is the final recipient of concerns from the NHS. This is an option we would recommend for the health sector in England and Wales. The INWO can ultimately ensure that an NHS Board is held to account by the Scottish Parliament.

Education

Research into the education sector which we carried out last year revealed that Ofsted
 received 1,543 contacts from staff working in schools, but only 338 were considered a 'qualifying complaint' for which Ofsted could investigate over a two-year period.[23] A variety

---

[21] Based on YouGov Survey commissioned by Protect in 2023.
[22] P.g.244 of the Infected Blood Inquiry Report, Overview and Recommendations, published 20th May 2024.
[23] From FOI requests, Ofsted reported receiving 1,543 contacts from staff working in schools, 338 were considered a 'qualifying complaint' for which Ofsted could investigate over a two year period.

of issues were raised within the 338 'qualifying complaints' the two most prominent concerns were aspects of leadership and management and aspects of the school's contribution to the well-being of pupils .[24] Despite this volume of whistleblowing disclosures Ofsted are not a prescribed person for education but are only prescribed to receive whistleblowing concerns about the regulation and inspection of children's social care.

Under UK whistleblowing legislation, the Employment Rights Act 1996, a prescribed person is an individual or organisation which usually has an authoritative relationship over organisations, industries or individual workers, such as regulators and professional bodies.[25]

Being prescribed makes it easier for the whistleblower to get protection should they be fired, forced to resign or face some other form of victimisation for raising whistleblowing concerns.

Being prescribed also carries a duty to report annually, with a report being placed on the prescribed person's website either in an annual report or a standalone report. This report needs to include:

- The number of disclosures of information (a legal term in PIDA to describe an act of whistleblowing made by) workers, that the prescribed person reasonably believes is a qualifying disclosure, in a 12-month period.
- Out of the total of qualifying disclosures, how many led to the prescribed person acting.
- A summary of how the information disclosed has impacted on the prescribed person's ability to perform its functions and meet its objectives i.e. the impact of the whistleblowers' disclosures. [26]

We recommend extending Ofsted's prescribed person status to education, making it easier for concerns to be raised with them from teachers and others in the sector and creating annual data that could be used to hold Ofsted and schools to account.

The Civil Service

Another example of a lack of a regulator for whistleblowers to approach is the civil service, where there is a lack of an independent body beyond the civil servant's own department to raise concerns. The absence of an independent route for civil servants, who are subject to the Nolan Principles, diminishes their ability to speak truth to power.

Despite this volume of whistleblowing disclosure Ofsted are not recognised as a regulatory body for education (known as a prescribed person) under the whistleblowing protection law.

[24] Ibid
[25] 43F of the Employment Rights Act 1996: https://www.legislation.gov.uk/ukpga/1996/18/section/43F
[26] 43FA of the Employment Rights Act 1996:
https://www.legislation.gov.uk/ukpga/1996/18/section/43FA

One of the consequences of this diminished ability to raise concerns with an independent body is that whistleblowers may feel they need to resort to anonymous leaking to the press. As the Committee for Standards in Public Life said in 1996 had the consequence of *"placing staff in a position where they feel driven to approach the media to ventilate concerns"* and that this was "unsatisfactory both for the staff member and the organisation".[27]

The lack of an external body can lead to anonymous leaking, which has been shown in the whistleblowing tribunal case of Josie Stewart. Though the full judgement has not been handed down, the facts of the case are illustrative. Josie was a senior official at the Foreign, Commonwealth and Development Office (FCDO), who had become concerned that the government was putting vulnerable lives at risk by mishandling the evacuation of Kabul, and that those at the top of the department were providing misleading information.[28]

Josie's decision to go the media was based on her witnessing of what happened to a junior civil servant who had approached the Foreign Affairs Select Committee with evidence of the Foreign Office failing and was attacked in the media for doing so. Josie was prompted to speak up and spoke anonymously to the BBC, who in turn accidentally revealed her identity via a journalist publishing an unredacted email on social media. Josie was dismissed as a result, with her argument to the tribunal being she had no choice: her own department was not going to listen and there was no external body she could take her concerns to. The FCDO's position was that Josie's security clearance had to be withdrawn (an effective dismissal) because she had broken trust.

Evidence from senior FCDO officials to the tribunal revealed an attitude or belief that civil servants should never be allowed to bypass internal channels and go straight to the press: they could think of no conceivable situation in which their civil servants could, in the public interest, disclose information to a journalist.[29] This shows a rather limited view about whistleblowing and fails to acknowledge that there may be statutory protection for some disclosures.

It is, though, in keeping with the Civil Service Code which is silent on options for raising concerns outside of the civil service, stating clearly that if a civil servant feels they cannot implement the decisions of the Government they should resign.[30] Only in the more detailed guidance do they refer to whistleblowing legal protection or the possibility of allowing external disclosures.[31]

---

[27] The Public Interest Disclosure Bill, 11 May 1998 : Column 889
https://publications.parliament.uk/pa/ld199798/ldhansrd/vo980511/text/80511-20.htm
[28] https://protect-advice.org.uk/can-civil-servants-ever-blow-the-whistle-to-the-press/
[29] Ibid
[30] Civil Service Code:
https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code
[31] Directory of Civil Service Guidance, p.g.64
https://assets.publishing.service.gov.uk/media/64b12c3c07d4b8000d3472bc/guide-civil-service-guidance-volume-1.pdf

A second consequence of having no independent regulator is that concerns in Whitehall are not raised at all. This has been identified in Sue Gray's report into Lockdown breaches in Number 10 where *"some staff had witnessed or been subjected to behaviours at work which they had felt concerned about but at times felt unable to raise properly."*[32]   Before that Nigel Boardman's 2021 report into Greensill Capital lobbying commented that the scandal 'might have been mitigated if there had been a robust and trusted whistleblowing process'.[33]

Whistleblowers should have the option to raise a concern with someone outside the Civil Service and the Civil Service Commission. The Law Commission has recommended an independent statutory commissioner with broad powers to investigate public interest disclosures, along with a public interest defence for whistleblowing on national security issues.[34]

QUESTION 3: **Best practice in managing risk within public sector organisations. We will look at how organisations can use data to analyse patterns, identify early warning signs and escalate issues of concern in a timely manner.**

Whistleblowing has, for a long time, been seen as one of the best early warning systems for organisations and a key tool to manage risk. This concept is one that also best serves the wider public interest, as Lord Borrie said during the second reading of the whistleblowing protection law: *"the regulator is usually in the role of detective, determining responsibility after the crime has been discovered. Encouraging a culture of openness within an organisation will help: prevention is better than cure".*[35]

The basic concept is the most effective way to respond to whistleblowing is when the concerns are raised with the organisation and dealt with by the organisation. This makes a lot of sense as an employer is always going to be able to react quicker to concerns than regulators. In practice this doesn't always work, and the reality is organisations need to have effective whistleblowing arrangements underpinned by an open culture that sees value in their staff speaking up.

---

[32] P.g. 36 of FINDINGS OF SECOND PERMANENT SECRETARYS INVESTIGATION INTO ALLEGED GATHERINGS ON GOVERNMENT PREMISES DURING COVID RESTRICTIONS www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1078404/2022-05-25_FINAL_FINDINGS_OF_SECOND_PERMANENT_SECRETARY_INTO_ALLEGED_GATHERINGS.pdf

[33] The Boardman Report: https://assets.publishing.service.gov.uk/media/61430ba3e90e070434bbc063/A_report_by_Nigel_Boardman_into_the_Development_and_Use_of_Supply_Chain_Finance__and_associated_schemes__related_to_Greensill_Capital_in_Government_-_Report_of_the_Facts.pdf

[34] Law Commission, Protection of Offical Data: https://assets.publishing.service.gov.uk/media/61430ba3e90e070434bbc063/A_report_by_Nigel_Boardman_into_the_Development_and_Use_of_Supply_Chain_Finance__and_associated_schemes__related_to_Greensill_Capital_in_Government_-_Report_of_the_Facts.pdf

[35] Lord Borrie, the Public Interest Disclosure Bill, Second Reading, 11 May 1998 : Column 889 https://publications.parliament.uk/pa/ld199798/ldhansrd/vo980511/text/80511-20.htm

Benefits to effective whistleblowing arrangements

Research has shown key benefits to an organisation that has effective whistleblowing arrangements spanning fraud to productivity:

- Research from the Association of Fraud Examiners demonstrates that whistleblowers are even better than internal auditors at detecting fraud. They found that in 42% of all cases, occupational fraud is detected via a tip and more than half of all tips came from employees. This compared with just 16% of tips detected through internal audit.[36]
- In a 2017 European Commission study on the economic benefits of whistleblower protection, it was determined that the potential benefits in terms of recovered public funds uniformly exceeded the costs of implementing systems to protect whistleblowers. In some countries, the potential benefits outweighed the costs by a ratio of 22 Euros saved for every 1 Euro spent on implementation.[37]
- The average time to detect fraud is 24 months, but those organisations with a strong Code of Conduct were able to reduce this by 50%.[38]
- Fine and litigation costs have been shown to be lower for organisations with effective whistleblowing arrangements.[39]
- Research in the US (United States) shows that organisations with higher numbers of whistleblowing reports have reduced litigation costs.[40]
- An effective whistleblowing mechanism can help address systemic issues, detect and prevent bribery and corruption and expose cases of tax avoidance, money laundering and human rights violations.[41]
- There is also research showing a strong speak up or whistleblowing culture is associated with improvements in innovation, productivity, and absenteeism among staff.[42]

The dangers of not acting on the early warning signs

The flip side to the benefits organisations can find from having effective whistleblowing arrangements is there is a cost both in ignoring staff who speak up, or in allowing a culture to exist where challenge isn't welcome.

Failings in the NHS

[36] Association of Certified Fraud Examiners (ACFE), Report to the Nations 2020.

[37] P.g. 12 of the Estimating the Economic Benefits of Whistleblower Protection in Public Procurement Final Report, 2017, European Commission
https://op.europa.eu/en/publication-detail/-/publication/8d5955bd-9378-11e7-b92d-01aa75ed71a1/language-en

[38] Estimating the Economic Benefits of Whistleblower Protection in Public Procurement Final Report

[39] There is a significant link between higher volumes of internal whistleblowing and fewer and lower fines and lawsuits for organisations. *Evidence on the Use and Efficacy of Internal Whistleblowing Systems, February 2020, Stephen Stubben and Kyle Welch.*

[40] Ibid

[41] Shipton, H., Sparrow, P., Budhwar, P. & Brown, A. (2017) HRM and innovation: looking across levels. Human Resource Management Journal Vol 27. pp246-63 and
https://www.cipd.co.uk/knowledge/fundamentals/relations/communication/voice-factsheet#gref
quoted in https://www.positivegroup.org/loop/articles/how-to-improve-speak-up-culture-in-6-step

[42] Shipton, H., Sparrow, P., Budhwar, P. & Brown, A. (2017) HRM and innovation: looking across levels. Human Resource Management Journal Vol 27. pp246-63 and
https://www.cipd.co.uk/knowledge/fundamentals/relations/communication/voice-factsheet#gref

In the case of the NHS, multiple inquiries over the years have found patient lives and safety is at risk, if boards fail to take their role seriously. Sir Robert Francis in his public inquiry into patient deaths at Mid Staffordshire Hospital in 2007 concluded that *'While it is clear that, in spite of the warning signs, the wider system did not react to the constant flow of information signalling cause for concern, those with the most clear and close responsibility for ensuring that a safe and good standard care was provided to patients in Stafford, namely the Board and other leaders within the Trust, failed to appreciate the enormity of what was happening, reacted too slowly, if at all, to some matters of concern of which they were aware, and downplayed the significance of others.'*[43] In 2022 the Ockenden Report into maternity deaths concluded Shrewsbury and Telford Trust, *"failed to investigate, failed to learn and failed to improve and therefore often failed to safeguard mothers and their babies at one of the most important times in their lives".*[44]

Horizon Computer Scandal

[The current Horizon Post Office public inquiry alone is estimated by the Government to potentially cost £190 million](#) and is likely to only rise as the full scale of the miscarriage of justice is revealed and compensation is quite rightly paid to those who fell victim to it.[45]

It has been put to former Chief Executive Paula Vennells during the inquiry that the Executive and the board could have picked a different path and elevated the suffering of persecuted Post-Masters at many points.[46] Failing to listen to whistleblowers has been a key part of this failing, the way the Post Office ignored the whistleblower from Fujitsu for example, could have been a powerful counterpoint to the group think that existed in the Post Office.[47] The key issue being that senior executives and the board appeared not to be open to challenge, unwilling to listen to issues that contradicted their view of the Horizon computer system.[48]

---

[43] P.g.43, 1.6, Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry Executive summary, 2013.
[44] Page ii, Ockenden Report- Final:
https://assets.publishing.service.gov.uk/media/624332fe8fa8f527744f0615/Final-Ockenden-Report-web-accessible.pdf
[45]
https://hansard.parliament.uk/commons/2024-03-19/debates/24031967000006/PostOfficeHorizonInquiryParticipationCosts
[46] Ex-Post Office chair says senior executives misled board over Horizon issues
https://www.theguardian.com/uk-news/article/2024/jun/05/ex-post-office-chair-says-senior-executives-misled-board-over-horizon-issues
[47] Post Office Whistleblower get's stamp of approval
https://protect-advice.org.uk/the-post-office-whistleblower-stamp-of-approval/
[48] Post Office chair was aware of Horizon concerns from day one but failed to act
https://www.computerweekly.com/news/366587816/Post-Office-chair-was-aware-of-Horizon-concerns-from-day-one

Best practice examples where whistleblowing is utilised as risk management tool

There are innovative practices from both the public and private sectors which could rolled out across the public sector to improve their accountability.

Effective whistleblowing arrangements can form the backbone of a good risk management tool. Here are some examples of good practice which we are aware of, and which could be highlighted by the Committee as examples the public sector should follow:

- We are aware of employers in the public and private sector who successfully use a victimisation risk assessment to prepare and address the risk of victimisation of a whistleblower at a very early stage. A risk assessment can also identify risks to breaches to a whistleblower's confidentiality as well as situation.
- Some employers conduct analysis of the effectiveness of their whistleblowing systems as part of a benchmarking or review process. Through this, some private sector organisations identified high levels of anonymous disclosures and saw this as an indication of a lack of trust among staff.
- Anonymous reporting platforms can complement internal whistleblowing processes, providing a variety of ways for concerns to be raised. We're aware of analysis from one large private sector employer showing engagement with the whistleblower was key to getting better information from that person. Having multiple ways to communicate with a whistleblower is valuable.
- Freedom to Speak Up Guardians in the NHS in England are an example of creating an advocacy and support system within an employer, these can act as a bridge between the whistleblower and the board. These roles though need, in our view, to be resourced properly and separate from Non-Executive board members who oversee the whistleblowing system.
- Organisations using Protect's Benchmark can use data about how their whistleblowing arrangements are working to analyse patterns, identify early warning signs and escalate issues of concern in a timely manner.
- Feedback can improve systems, during research for a guide for employers on preventing victimisation we have a case study of a large regulator where comments from a whistleblower using the internal system lead to the development of a pastoral care program for staff using the whistleblowing arrangements.[49]

Separately, we believe the public sector would benefit if the legal framework for whistleblowing created **a duty on all employers to investigate whistleblowing concerns**. We are not suggesting that every concern be investigated by an independent outsider, but in every case, the employer should be able to show they considered every whistleblowing concern. Too often we see senior executives saying they were unaware of scandals taking place in their organisation. They need to be accountable for the organisational response to concerns raised, and for how the organisation treats whistleblowers.

In the NHS, there has been considerable publicity about whistleblowers and the length to which their employer bodies go to discredit them or challenge them through the legal process. The treatment of whistleblowers needs to change, and one way to do this would be to implement the proposals of the Kark Review which aimed to increase the accountability of

---

[49] Taken from a Case Study on page 39 of Protect's Preventing Victimisation Guide.
https://protect-advice.org.uk/preventing-whistleblower-victimisation-guide-2022/

NHS senior leaders.[50] In particular, Kark proposed that failing to listen to whistleblowers, or treating them badly, should be seen as serious misconduct. Protect supports this proposal and believes that it would improve organisational accountability in the NHS.

QUESTION 4: The role of boards of public bodies, including how they can maximise their effectiveness at providing timely challenge to the organisation.

Boards are key to setting the tone for whistleblowing arrangements, and an effective board using information provided by the whistleblowing process should be better placed to challenge and provide better oversight for the organisation. Ultimately the final responsibility for an organisation failing should rest with the board, creating a system where oversight stops problems developing at an early stage, and where this fails, the board are then held to account.

However, the failings at the Post Office, and repeated failings in the NHS, show the cost organisations can pay where they have weak boards. Regular review of a broad set of data including staff surveys which are structured in such a way to give an indicator of organisational health, backed by 360 degrees appraisals of Chief Executives can give an indication of the overarching culture of the organisation from the top.

To our mind this can be done by the board regularly reviewing data from the organisation's whistleblowing arrangements, and by being a place where concerns can be raised, or individual cases discussed. In essence, both elements mean the board should be well placed to ask the executive questions and challenge on aspects of the organisation that needs to be scrutinised.

We are concerned that some boards in the public sector are neither displaying that leadership which means whistleblowers are listened to and their concerns are acted on or held to account when this failure leads to scandal and disaster.

The Role of Non-Executive Directors

Some non-executive directors have been shown in the public sector to be particularly weak, with prime examples shown in the Post Office and NHS, in identifying and challenging unacceptable cultures and holding executives to account.   Boards in the private sector often face more regulation and a good example of a regulator holding an executive to account is when the Financial Conduct Authority sanctioned CEO Jes Staley for trying to uncover the identity of a whistleblower. Yet there are no equivalent regulatory actions against NHS leaders for carrying out retribution against a whistleblower, and it has taken a public inquiry to hold senior executives to account at the Post Office.

---

[50] Kark review of the fit and proper persons test - GOV.UK (www.gov.uk)

The private sector has made strides in creating more robust and independent non-executive directors, the answer is not to hire more from the private sector but to ask how the public sector can create a role that is able to challenge the executive.

Learning from past scandals

Past scandals show the dangers of a board that either does not see their role is to oversee and guard the whistleblowing culture within the organisation or fails to take a whistleblowing disclosure seriously and ask the right questions.

The Post Office is an example of a board which lacked curiosity failing in their role in challenging the executive over problems with the Horizon computer system. Evidence to the official inquiry from UK Government Investments (UKGI), a company owned by the UK Government which oversees public investment portfolio of 17 companies including the Post Office demonstrates this point.[51] UKGI provided a Non-Executive Director to the Post Office and was of the opinion the Post Office Board 'did not view whistleblowing as a key aspect of its remit and responsibility' when allegations started to emerge about the Horizon computer system from the Fujitsu Whistleblower and the BBC Panorama program in 2015.[52] The UKGI evidence stated, *'the Fujitsu whistleblower does not appear to have been treated as significant by the Board, nor did they prompt consideration by the Board of whether the whistleblowing procedures operated by POL were fit for purpose'.* [53] This was put down to the fact this whistleblower did not work for the Post Office. The effect of this lack of curiosity could be seen by evidence given by the former Chair of the Post Office during this period, Alice Perkins, who confirmed both Post Office Executives and Fujitsu misled the board on problems with Horizon computer systems.

Boards using data to understand the whistleblowing culture in their organisation

What data should the Board consider?

First, the effective functioning of the system itself.

Reviewing the data produced by the whistleblowing system is a tool boards can use to challenge the way the organisation is operating to ensure issues are dealt with in an effective way. This can give a board reassurance that the system is working effectively – that the policies and give them an idea of areas where there are problems or issues.

---

[51] https://www.postofficehorizoninquiry.org.uk/sites/default/files/2022-10/SUBS0000006.pdf
[52] Post Office lied and threatened BBC over Horizon whistleblower
https://www.bbc.co.uk/news/uk-67884743
[53] https://www.postofficehorizoninquiry.org.uk/sites/default/files/2022-10/SUBS0000006.pdf

This exists in the private sector where the UK Corporate Governance Code states: *"The board should routinely review these arrangements and the reports arising from their operation."* [54] In the financial sector whistleblowing rules require firms to have in place a Whistleblowing Champion at board level who has *"the responsibility for ensuring and overseeing the integrity, independence and effectiveness of the firm's policies and procedures on whistleblowing including those policies and procedures intended to protect whistleblowers from being victimised because they have disclosed reportable concerns".*[55]

The Board should be reviewing data on the health of the whistleblowing system through policy processes and staff confidence etc, examining trends of issues whistleblowers within their organisation are raising and, where appropriate, these should also be recognised this via risk registers. Boards should be trained specifically on whistleblowing – its importance, the risks of ignoring whistleblowers, and how to proactively prevent whistleblower victimisation. We want to stop a repeat of what the former chief executive of Countess of Chester hospital suggested in the press: that the hospital's board of directors were kept in the dark about Lucy Letby's crimes and the missed opportunities to stop her.

Second the Board needs to understand what concerns are being raised

A danger in the NHS is that Boards do not see whistleblowing in the round. They are required to consider reports from their Freedom to Speak Up Guardians (FSUG), but talking to a FSUG is not the only way in which whistleblowing concerns are raised, and "Speaking Up" in the NHS encompasses many concerns which are not whistleblowing ones. Boards need to cross check the data they are receiving about patient safety, fraud, health and safety and other risks to see what is being raised and why, and to consider if there are serious incidents that might have been raised by staff but were not.   If the first time a Board hears of an issue is through the patient complaint system, then there is likely to be something seriously wrong with the internal culture: someone inside the organisation will most likely have known about the issue but either been afraid to raise it, or their concerns were not listened to.

A similar danger arises in the civil service where a lack of quality data can mean the boards are in dark about the full picture of the whistleblowing system. A report from the National Audit Office looking into whistleblowing has found 40% of whistleblowing concerns raised with various Departments were about fraud.[56] But there is no data on the seriousness of the concerns, the type of fraud uncovered, or whether this data was truly even whistleblowing:

---

[54]
https://www.frc.org.uk/library/standards-codes-policy/corporate-governance/uk-corporate-governance-code/

[55] SYSC 18.4 The whistleblowers' champion,
https://www.handbook.fca.org.uk/handbook/SYSC/18/4.html

[56] Investigation into whistleblowing in the civil service
https://publications.parliament.uk/pa/cm5804/cmselect/cmpubacc/457/report.html

'The Cabinet Office could not confirm if these fraud-related cases are truly whistleblowing, as it does not have an understanding of the nature of these cases beyond the 'fraud' categorisation in its data collection. The Cabinet Office acknowledged this to be an area that it could follow up on by talking to departments about what information they track, and it could also talk to the Public Sector Fraud Authority about the data that it already collects in this area so that it does not duplicate that.'[57]

Third, the Board needs to understand what happens to whistleblowers and what lessons can be learnt.

The NAO's report on whistleblowing in the civil service also found that victimisation rates were not recorded by Departments, and there was no consistent approach from Departments on obtaining feedback from those that used the whistleblowing arrangements.[58] The recommendation from the Public Accounts Committee who commissioned the NAO research was for the Cabinet Office to take a much firmer hand in setting standards among Government Departments in terms of the data they collect from Departments so there is better oversight. [59]

Whistleblowing Champions and the role of boards

We believe the public sector would benefit from having a Whistleblowing Champion on every board, recasting the role of a non-exec role so that there is a board member overseeing and responsible for the whistleblowing culture in their organisation.

This role should be underpinned by a board level commitment to reviewing the whistleblowing arrangements. We have developed a Whistleblowing Benchmark, drawing on standards set in the EU Directive and the ISO Whistleblowing Management standard.[60] This tool has codified best practice from an employer perspective into our unique evaluation tool breaking the process down into three key areas:

1. Governance (policies and procedures, accountability, review, and reporting arrangements)
2. Staff engagement (communications and training) and
3. Operations (support and protection, recording and investigations, resolution, and feedback).

---

[57] Ibid
[58] Ibid
[59] Ibid
[60] EU Directive on whistleblowing:
https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/protection-whistleblowers_en and ISO 37002:2001 Whistleblowing Management System
https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/protection-whistleblowers_en

On completion, an organisation receives a score under each area, allowing comparisons with other organisations and against best practice, and providing a gap-analysis so that organisations know where to improve. Together these three areas cover a successful whistleblowing/speak up programme and provide employers with an understanding of the full range of activities that they need to deploy to respond effectively to disclosures. In our work with employers, we often provide boards with a report about their whistleblowing arrangements, following completion of the benchmark, and this is a good way for leaders to obtain independent audit of their arrangements.

We think the Committee could perform some valuable work, given the current public inquiries into scandals in the public sector where the boards have shown to have failed in their role, to produce guidance and a set of standards.

Conclusion

Our hope is the evidence we have submitted on accountability in the public sector has demonstrated that effective whistleblowing arrangements, both internally and externally, should be given higher priority by public sector bodies. Whistleblowing is not a magic bullet, and even the best arrangements cannot guarantee that scandals and failures will not occur. However, without due attention paid to whistleblowing by individual employers and regulators, there remains an accountability gap in the public sector.

Standards across public life would be improved if there was a culture across organisations where whistleblowers were valued and listened to, and where boards took responsibility for this culture. To achieve this, we believe boards in the public sector needs to be held to a new set of standards set by the Committee, and for each board to have a Whistleblowing Champion overseeing the whistleblowing arrangements, and who is accountable for their operation.

Submission 22, Royal Statistical Society, Data Ethics and Governance Section

This response is being sent on behalf of the Royal Statistical Society's Data Ethics and Governance Section[61].

About the RSS Data Ethics and Governance Section

1. The Royal Statistical Society (RSS) is a professional society for statisticians and those interested in statistics in the United Kingdom. The RSS is dedicated to promoting the importance of statistics and data analysis in society. It plays a crucial role in advancing the field of statistics and promoting the use of data and evidence in decision-making.

2. The Data Ethics and Governance Section is a member group of the RSS. Amongst other activities, the section promotes good practice by addressing what good data stewardship and ethical practices look like; coordinates data governance interests across the RSS; and engages members, and non-members, to think more broadly about the impact of new uses of data on our society, and how that affects professional responsibilities.

3. This response sets out the section's views on how good data assists the Nolan Principle of Accountability.

Key points

● Data allows systematic and consistent monitoring of normal functioning of large systems; the data is passive but not neutral and statistical professionals are needed to explain its limitations.

● It is easy to lie with data but easier to lie without it. Official statistics can anchor public accountability in well-established governance.

● Most boards depend on advice about Artificial Intelligence (AI) and lack capability to appreciate its true potential as automation transforms businesses, so risk assurance and monitoring must adapt for that.

● Whether things go right or go wrong, integrated monitoring of data is only one feature. Data needs to be collected in anticipation of accountability, yet uncertainty will remain.

Accountability and data

4. Accountability of expert technical functions for public purposes,[62] e.g. consumer product regulators like the Financial Conduct Authority (financial), Medicines and Healthcare products Regulatory Agency (MHRA) (health), and Food Standards Agency (food),

---

[61] Data Ethics and Governance Section,
https://rss.org.uk/membership/rss-groups-and-committees/sections/data-ethics/
[62] Paul Tucker describes the role of these institutions in his book Unelected Power (2018) Princeton UP

requires both information and an analytical capacity to make use of it. Failures can therefore be due to strategic and structural issues, not simply negligence, dishonesty or reckless behaviour, because information needs are poorly communicated, and misattribution of meaning occurs without validation. The imperative to act can also mean technical problems are only partially understood when remedial intervention is initiated: the shock of discovering issues with accountability can result in a failure to examine the completeness of understanding.

5. Good data can help where novel situations arise, such as procurement and delivery of very large projects, for which expectations are hard to calibrate. Benchmark data helps with the necessary calibration: the uniqueness of large procurements is often overstated, which is improved by defining a reference class and collating data on past projects with comparable features. Such large projects also have a political dimension, and reputational stakes for people within organisations, not just the award of large contracts, which can lead to selective representation of information.[63] An example of data sourced more widely can be seen in the 'yellow card' system used by the MHRA for the reporting of adverse reactions to medication, which can be completed by any person, not just regulated clinical professionals.

6. Where the outcomes are well established, but extreme or unusual incidences are a concern, specific statistical techniques can be used for monitoring purposes.[64] Although these techniques will identify anomalies, like unusual death rates, interpretation must always be qualified as there are always reasons for rates to be higher in some circumstances, and causes should not be prejudged. A public facing online dashboard[65] was developed as the culmination of extensive research on outcomes to show the outcomes of children's heart surgery in different clinical providers, following a public inquiry about heart surgery in Bristol during the 1990s.[66]

The role of official statistics

7. Official statistics offer advantages in high consequence outcomes in public service delivery: these are expected to be well documented and aligned to identified standards which both meet user expectations and quality standards. In the UK, they are also regulated in respect of the Code of Practice for Statistics which sets out specific requirements on three pillars: Trustworthiness, Quality and Value.[67] Where statistics describe outcomes of a public service which form an accountability of a public body, it is no good for a minister to say, as they can sometimes deflect challenging questions, that they "do not recognise that statistic". Specifically, the ministerial code says they must have regard to the Code of Practice for Statistics, and the Civil Service Code goes

---

[63] Flyvbjerg (2021) Top Ten Behavioral Biases in Project Management DOI: 10.1177/87569728211049046

[64] Spiegelhalter et al. (2011) Statistical Methods for Healthcare Regulation DOI: 10.1111/j.1467-985X.2011.01010.x

[65] Dashboards are a useful mode of presenting information for the public, but good information is critical.

[66] Pagel et al. (2017) Understanding Children's Heart Surgery Data DOI: 10.1016/j.athoracsur.2016.11.080

[67] Office for Statistics Regulation (2018) Code of Practice for Statistics (v2) https://code.statisticsauthority.gov.uk/

further, so that misrepresenting an official statistic would be inappropriate behaviour. Thus, where official statistics are available on outcomes, they serve both to open up the political debate and anchor it in some facts, and it is of great public value to establish these in anticipation of accountabilities (collecting data retrospectively is likely to introduce errors as well as delays).

8. Sometimes it is argued that publishing data itself presents risks, for example linked to security and privacy, and there are detailed exemptions to the FoI Act which are not subject to a public interest test. But there are ways to make data available for independent analysis while maintaining control over such risks, an example being the Secure Research Service (SRS) currently run by the Office for National Statistics for academic research access to sensitive data produced by government and other bodies. Here analysis is facilitated using data which cannot be released because the identity of individuals could be inferred by linking to other data or searching for rare combinations of attributes. An example is the deposit of data relating to the school examinations in England so that the impact of the grading developed and then withdrawn could be better understood retrospectively (other nations have not provided any such access for independent researchers).[68]

Governance and decision making

9. We believe using data well, in line with professional statistical standards, is critical in effective governance of complex systems integrating technology in the delivery of public services.[69] This is true in monitoring normal service standards, and identifying anomalous patterns, in terms of changes to underlying demand, and realisation of known risks. Beyond this a general problem of implicit framing, and focus on ingroup perceptions (typically described as 'groupthink') can limit the attention of supervisory boards. Guidance on Red Teaming is available to help challenge these sorts of limitations[70] but the resourcing and delay inherent in a truly independent review can be hard to prioritise when business pressures are for action.

10. Refreshing membership of boards is therefore important, as well as suitable induction to bring them up to speed quickly, without serving to indoctrinate them in the existing consensus. Many boards of public bodies will be faced with decisions about automation, typically branded as AI, for which they will lack the expertise, meaning they can be dependent on advice received. There are also limits to advice, and the need to integrate corporate strategy with appreciation of the potential of new technology, and the risks it brings in any organisation.[71] There is currently an algorithmic transparency recording standard (ATRS)[72] which will be required for use by public bodies, but this is a technical

---

[68] ADR UK:
https://www.adruk.org/data-access/flagship-datasets/grading-and-admissions-data-for-england/
[69] Twenty years ago the Royal Academy of Engineering made recommendations on project management.
[70] Ministry of Defence Red Teaming Handbook (v3.0)
https://www.gov.uk/government/publications/a-guide-to-red-teaming
[71] The RSS engaged data science (now called AI) practitioners in 2018 and board capability was a concern.
[72] Algorithmic Transparency Recording Standard (2024)
https://www.gov.uk/government/collections/algorithmic-transparency-recording-standard-hub

standard which does not give a clear basis for what information should be used by boards, and the technical expertise they will need to have.

Bad Practice: Post Office private prosecutions

11. The Post Office presents examples of most of the limitations outlined above. Challenges of the initial roll out of the Horizon system relating to subpostmaster skills, branch ergonomics and even telecommunications were appreciated and mitigations negotiated to some degree. The validation of transactions with the data centre, polling of the local Riposte message store, and updating of reference data were not nearly so visible, even before the transformation of back-office functions could be considered. The board reacted to some of the problems the project faced but had not done a detailed comparison to similar transformation projects. It is not clear if the Post Office ever undertook a suitable assessment of the system and its contingencies in a corporate risk register. Despite the critical role that accounting for public money played in the business, the board never acquired members who had the capability to assess that.

12. Private prosecutions are a distinctive feature of the miscarriage of justice perpetrated by the Post Office, but they are not the subject of comprehensive official statistics, which might have expedited the accountability that is now the responsibility of a public inquiry. At present, statistics are only published on the extent to which private prosecutors have sought legal aid for their prosecutions, and although data is now being collated, there is no intention to publish any statistics or otherwise release the data for independent analysis.[73] Nationally aggregated statistics would have been sufficient to overcome the obfuscation caused by prosecuting all over the country and would have shown much earlier whether there had been a change following the introduction of the Horizon system.

Good Practice: the roadmap out of lockdown in 2021

13. At the start of 2021, 'national restrictions' were reintroduced to manage the spread of the alpha variant of SARS-CoV-2. Although the slogan 'data not dates' was repeated by politicians, the key accountability was the 'four tests' which were published alongside the roadmap.[74] These covered the full pandemic risk space as it was understood at the time:

    a. control of the epidemic (prevalence)

    b. population risk (vaccine uptake)

    c. viral dynamics (variant of concern)

    d. health system (hospital capacity)

14. At press conferences throughout the spring, these four tests were reviewed with basic metrics by the scientific and health advisors, showing how the roadmap was progressing. There was pressure on each at different points, and some changes to

---

[73] Government Response to Justice Select Committee Inquiry on Private Prosecutions Safeguards (2021) https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/1238/123802.htm
[74] Spring 2021 Roadmap: https://www.gov.uk/government/publications/covid-19-response-spring-2021

vaccination policy, but the accountability was clear from the outset and sustained throughout. Thresholds for the metrics were not given but the four tests encapsulated all of the pandemic measures in public discussion at that time.

15. A national emergency presents many challenges and the evolving scientific ambiguities required flexibility from politicians, but the four tests afforded that focus proportionately. Ironically, the level of foresight required to do this work meant it was unappreciated when it was published but that is the nature of public responsibility. Data rarely features so centrally in national accountability, and in this case, it had taken several false dawns, in terms of marshalling data and a pandemic response.

Submission 23, Society of Local Council Clerks (SLCC)

Dear Sir/Madam,

Accountability within public bodies – acting on early warning signs

The Society of Local Council Clerks (SLCC) is the professional body representing town, parish and community council clerks in England and Wales. More than 3,700 local council clerks are in membership serving over 5,000 town, parish and community councils throughout England and Wales.

SLCC response

In formulating this response, SLCC has conducted a survey of our membership in relation to the consultation. We received 147 responses and have provided tabulated summaries of the most notable responses to the consultation questions as follows:

Question 1
What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

Lack of knowledge and training about handling problems by individual councillors and/or council as a corporate body	77%
Lack of acknowledgement that there is a problem at the council	72%
Fear of coming forward or reprisals	55%
Lack of support and resource	47%

Question 2
Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

Code of Conduct (aligned with your principal council)	82%
Standing Orders	91%
Financial Regulations	86%
Regular updating of the Register of Interests	70%
My council has signed up to the sector's Civility & Respect Pledge	67%
Training on roles and responsibilities during each election term, and when new members or officers join the council	55%

Note: details of the local council sector's Civility & Respect project can be found here and details of the pledge can be found here.

Question 3
Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

Internal audit	98%
Risk Assessment reviewed and adopted annually	97%

A complaints procedure and register (to include complaints by councillors and the public)	81%
Insurance review	84%

Question 5
What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

Publication of internal and external audit reports	97%
Record of attendance at council meetings with approval of absence	94%
Access to good guidance and legal advice via sector membership organisations (e.g. Town and Parish Council Tool Kit, Practitioners Guide, The Good Councillors Guide)	93%
Training budget in place	90%
Publication Scheme	84%

Question 7
Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

For this response we simply asked our members if their council currently had a culture where councillors and staff feel safe to speak about concerns, allowing problems to be addressed early and lessons learned. 62% responded yes, with 38% responding no.

Supplemental to this, we asked those who had responded no, what they believed the reasons for this were. 37% said it was due to a lack of proper sanctions for poor behaviour which can mean that councillors and staff feel it is not worth raising an issue.

Recommendations from SLCC's findings

An overwhelming majority (83%) of our respondents believe that town, parish and community councils are transparent about how they operate and make decisions on behalf of the public.

It is, however, clear from previous research, anecdotal evidence and our members' responses to our survey and this consultation, that their views are dominated by the issue of standards of behaviour and their vulnerability of employment as public officers. There is evidence which suggests that this is associated with a lack of accountability on the part of local councils as bodies and a significant part of that is because of the absence of consequence for breaches of the code of conduct.

For clarity, it is a minority of respondents that report specific issues in this regard with many reporting positive experiences of culture and working practice. The large majority of respondents, irrespective of their current personal experience and context, recognise this as a significant issue.

Based on our members' feedback, our recommendations in terms of means by which accountability within public bodies may be improved are as follows:

1. **Maintain good governance**

   - Establish governance which allows officers to perform their duties while ensuring robust oversight and transparency.

   - Regularly review and update governance policies to reflect best practices and current legislation.

   - (Specific to local government) review the Local Government Act 1972. The act is over 50 years old and business practice, speech and language have evolved. This may bring more clarity and better practice to the sector.

2. **Create a positive and proactive culture**

   - Promote the values of respect, integrity, and accountability (in line with our sector's 'Civility & Respect' project and pledge as referenced above).

   - Encourage elected members and officers to work collaboratively, solving problems together and treating each other as they would like to be treated.

3. **Drive knowledge and understanding through training**

   - Provide training to improve knowledge and understanding – specifically (within our sector) on employment matters for the different roles and responsibilities, powers and the duties.

   - Introduce mandatory induction training for all newly elected members, covering employment law, the Nolan Principles, Code of Conduct, Civility & Respect Pledge and conflict resolution and mediation.

   - Conduct regular refresher training and continuous professional development for elected members and officers.

4. **Maintain open communication and intervention channels**

   - Maintain a regime of regular meetings and forums for open dialogue between officers and elected members.

   - Provide professional training or trained HR experts to offer, advice and mediation.

   - Establish anonymous reporting mechanisms for officers to safely report bullying and harassment.

5. **Implement good employment practices**

   - Maintain clear employment policies with defined procedures for addressing complaints.

6. **Ensure consequence for breach / non compliance**

   - (Specific to our sector) change legislation to provide for sanctions for breaches of the code of conduct.

Please accept my thanks for the opportunity to comment on this important consultation. If it would be helpful, I would be pleased to meet with or speak to officials to explain in more detail the points and observations raised here.

Yours sincerely,

Rob Smith
Chief Executive SLCC

Submission 24, Jonathan Sutton

Introduction

This submission is my own. It is submitted after witnessing an informal (that is to say non-constituted) Worcestershire Voluntary Sector Alliance Management Governance Board not adhere to all of the Nolan Principles.

Context

The health services form over 40 Integrated Care Systems (ICS) established to improve the way local NHS, councils, voluntary sector and others work together. They aim to improve health and care services with a focus on prevention, better outcomes and reducing health inequalities. ICSs were legally established on 1 July 2022, covering all of England. NHS provided guidance on the establishment of voluntary sector alliances (Reference A).

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

In the example I refer to, the Nolan Principles were not considered by the state funders or the VCSE in their consideration of governance arrangements before funding was agreed. Had it been a requirement to demonstrate how governance adhered to the Nolan Principles then funding would have been withheld.

My sense is question 2 below is absolutely the right question. The Nolan Principles are often untaught, nor is the adherence captured in staff Codes of Conduct, decision making procedures or training. Consequently there are few incentives to follow them and no penalties for ignoring them.

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

No. Employees must undertake regular updating in the same way as they endure Health and Safety training and revision. In VCSE the Trustees must embody these principles and day to day custodianship is delegated to the Company Secretary, probably underpinned by charity regulation.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

Data is essential in both the planning of public services and delivery of services. Local authorities do not have robust strategies to join up data services probably because of investment.

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

No.

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

Governance diagrams are often produced but they can be complicated and impenetrable. A written statement alongside explaining where or who accountability lies would improve matters.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

This is a good question. It is associated with blame and sometimes really needs to be! In the example I cite, problems in adherence to Accountability, Openness and Objectivity were pointed out but no action was taken. It should be incumbent on employees to ask how the Nolan Principles are being applied to decisions at governance boards. The cultural norm must be to explain how all the Nolan Principles are discharged.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

I am not.

References

A.Building strong integrated care systems everywhere ICS implementation guidance on partnerships with the voluntary, community and social enterprise sector. NHS Publications approval reference: PAR905 Version 1, 2 September 2021

Submission 25, The Access To Justice For Families Foundation

Response to 'Committee on Standards in Public Life' Consultation Questions: -

1. *Q1. 'What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?*

2. In my own personal experience and experience as a legal consultant, the main reason as to why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation is due to the lack of awareness, comprehension of 'The 7 Nolan Principles of Public Life'. There have been examples of this lack of comprehension can be highlighted in discussion with Avon and Somerset Police, and Cleveland Police Constabulary's staff within the last three years. When I personally mentioned 'The 7 Nolan Principles of Public Life', to the police staff, they instantly took a defence approach stating '*I do not know what they are'*. In particular in 2021, I was falsely labelled 'manic' for daring to bring up these standards. I have seen this again in cases that come through my charity. In early June 2024, I spoke to Cleveland Police to assist a member of the public, trying to report a crime. The police officer in question did not even know about the 'The 7 Nolan Principles of Public Life'. He quoted '*I have never heard of them'*. The Cleveland police officer had served over 15 years in the police and had zero comprehension of the 'The 7 Nolan Principles of Public Life'. Therefore, in answer to the Committees question, the main issue is lack of awareness that 'The 7 Nolan Principles of Public Life' existence, which leads to the lack of decisiveness as they are not educated, informed or aware of the principles, meaning public bodies cannot identify the problem, they do not know what they are breaching, so cannot provide solutions in the public interests.

3. *Q2. Can you describe any examples of practice measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision making models, codes of conduct, guidance and training?*

4. In my own personal experience, working with Litigants In Person though the charity, the only practical measures in place is members of the general public informing public bodies staff members of Nolan Principles in writing and in most cases adding the link

within their complaints correspondence in the hope this has some traction towards the employees. Unfortunately, is does nothing to help or assist the public employees in adhering to the Nolan Principles. In almost every case I have seen and consultant on, the general public and Litigants In Persons are ignored, silenced and blocked from having access to justice they so desperately deserve to correct the miscarriages of justice. Upon review of the Police, HMCTS, Judiciary, The Law Society, The Bar Standards Council, Local Authorities, there is no reference anywhere on their websites, 'Terms and Conditions', 'Privacy Policy', 'Complaints Procedures' of their duties under the Nolan Principles.

5. *Clear Awareness In the Public Interests:*

6. Therefore, this would be an important 'practice measure' to implement to all public bodies moving forward. It must be made mandatory that on every public body website, there is a clear page dedicated to 'The 7 Nolan Principles' either in the websites header or footer to make it easy accessible for the general public.

7. *Training & Designated Officer of Nolan Principles Accountability:*

8. The second practice measure is that every staff member of public office needs to have training on the Nolan Principles, what they mean, why they are in place and the consequences of breaching them. Malfeasance, Misconduct of Public Office which is a criminal offence set out by the CPS https://www.cps.gov.uk/legal-guidance/misconduct-public-office .

9. *Nolan Principles Public Register:*

10. Thirdly, there needs to be a designated 'Misconduct of Public Office' Advocate within each legal department of the public bodies, to act as mediator for general public complaints and also to work with the head of HR to ensure that internal provisions are in place for internal staff review, disciplinary procedures, such as verbal warnings, written warning, then immediate dismissal and immediate referral to the DPP at the CPS for prosecution for multiple breaches of 'Misconduct of Public Office', in the public interests to restore trust, transparency. All referrals of 'Misconduct of Public Office' are to be named on a public registry

which is accessible via the public bodies websites and government website managed by the 'Committee On Standards of Public Life'.

11. The above is not currently in existence within any public body.

12. *Q3: Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?*

13. As per the Home Affairs Committee Report 1,2, and 3 produced by Parliament in 1998, in the 3rd Report as para 1 it stated: -

14. *In its report, the Committee made this principal recommendation: "that police officers, magistrates, judges and Crown Prosecutors should be required to register membership of any secret society and that the record should be available publicly. However, it is our firm belief that the better solution lies in the hands of freemasonry itself. By openness and disclosure, all suspicion would be removed and we would welcome the taking of such steps by the United Grand Lodge."*

15. *2. This recommendation is consistent with the evidence given to the Committee by the then official Opposition that "membership of the freemasons (and any other similar organisation) should be a declarable and registrable interest" (HC 192-II, Appendix 25, page 139).*

16. https://publications.parliament.uk/pa/cm199798/cmselect/cmhaff/577s1/has103.htm

17. It would be beneficial to the public to use the data of freemasonry membership when holding a position of Public Office by way of generating a Public Register in the public interests to restore trust, transparency in accordance to the rule of law and democracy.

18. *Q4: Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addresses?*

19. No, there are no organisations that adhered to the Misconduct of Office and 7 Nolan Principles.

20. *Q5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of the organisations?*

21. Suggestions are provided above.

22. *Q6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?*

23. The annual meetings should be made online and open to the general public to attend for truth transparency and trust to be restored. Recordings of the annual meetings should be made available online, via social media platforms. The Court of Appeal live stream some of their cases online via YouTube. The meeting minutes should be published publicly and all public bodies must upload them on to their websites under the 7 Nolan Principles website pages to keep the public up to date and informed.

24. *Q7: Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?*

25. In the interests of public disclosure to prevent the crime of Misconduct In Public office, there needs to be protection for whilst blowers and general public. The law is in place for this pursuant to The Public Disclosure Act 1998. There needs to be protections put in place for anyone disclosure to prevent any gang stalking, covert attacks on that person when making disclosures. We would suggest that there is a register of Whilst blowers held at the Committee on Standards In Public Life, once the name of the person disclosing is registered, that person has full state protection from vexatious lawfare unlawful prosecution for raising their concerns. It is made public through the media that disclosure has been made and a full investigation is being conducted, so that person has protection in the public interests. The state must provide protection to people disclosing against powerful public bodies if the Committee is interested in cleaning up the corruption within the system. https://www.legislation.gov.uk/ukpga/1998/23/contents

26. *Q8: The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the*

public. Are you aware of any examples of organisations exhibiting good practice in this area?

27. No. No public bodies that I have dealt with is aware of the 7 Nolan Principles of public life. Included Avon and Somerset Police, Cleveland Police, Humberside Police, Manchester Police, MET Police, Scotland Yard, JCIO, IPT, ICO, CPS Cafcass, Local Authorities, HMCTS. They are do not know or comprehend the importance of the 7 Nolan Principles of Public Life. It is very concerning.

Thank you for reading and considering the points I have raised to the Committee on Standards in Public Life.

 Yours faithfully.

Sian Gissing-McMeel
Director

Submission 26, Carolyne Trew

I am answering this consultation as a member of the public, fed up with the amounts of money spent on compensations due to the secrecy and protective behaviours of public bodies when they are all too often found at fault for not acting swiftly or appropriately serious and in some cases dangerous aspect are raised. Management all too often turn a blind eye and are deaf unless an expensive consultancy firm is employed and more often than not on managements side as that is who pays their invoices/bills.

Too much has been spent on wasteful projects which are not the best use of Public funds which has also, now created an adverse work ethos and a huge work shy community, an example is staff not coming into their offices. Stonewall consultancy was a total fiasco and should never have been allowed at tax payers expense.

I have never worked in public company/agency but have worked for various MOD suppliers so am very conscious of my wages dependant on winning state contracts as well as being a tax payer seeing how much is wasted. For this reason I have wanted to respond to this consultation.

In answer to the questions:

1. Public bodies have processes that are so unweidly and bureaucratic that they are unable to react to issues in a smart way. When issues are raised managers will always take the side of the official line rather than respond quickly and decisively to check that the allegations are substantive and need to be acted upon. Communication within the hierarchy needs to be more effective and not use the 'stick & carrot' as their first call. Issues such as children on the social care radar not being seen or checked properly when concerns are raised with extended family or neighbours is a clear indicator things are wrong.

2. The Post Office/Horizon scandal is exactly where this has not worked. Management at all levels including HR and legal were advised of a problem but all chose to blame the employees rather than check it out and act on the information being given. To then tell staff that they were unique in having their problems was diabolical and criminal. The relevant MP not checking his constituent issues more deeply is also at fault. I cannot think of a single example where the Nolan Principles in any public body has worked. In cases like this everyone at an executive level need to be charged with mal practice and be punished as they punished innocent staff. This would then send a clear message to other bodies to behave accordingly.

3. Data can play a big role in understanding risks but the algorithms need to be updated on a regular basis, s/w checked for bugs and item verified by independent parties outside the immediate organisation. Technology is constantly changing and the public sector are certainly lagging way behind.

4. Airbus is a large company that does have very good practices in place and talks to many parties internal and external on a regular basis to understand risks and problems and finding working solutions to them. They listen and communicate and expect to hear bad news on a regular basis without any repercussions as a means to improve. They invest highly in their multicultutal staff.

5. Listen to staff (not senior managers) and whistleblowers, check details out - walk the walk around the business on a regular basis and listen rather than talk to gain the trust of the shop floor who are closer to the front line and should be able to freely speak out. The front line want to retain their jobs, want to enjoy coming to work, want a decent remuneration package and job satisfaction but wont get this if they are not heard but are considered to be just 'a resource number'. Bring back proper a Personnel Dept and remove Human Resources who appear to be interested in one side of the 'business' and in most cases do not listen or hear the messages.

6. Get industry to conduct the effectiveness, rather then be self appointed and don't use any of the large Accountancy/Consultancy firms who are not independent (especially when contracted by the agency they are working for). Best practice should look like one of the FTSE companies or even successful SME's. These should be remunerated but hopefully their prices for the kudos wont be the same as the Accountancy/Consultancy group. Do not have/create another Quango.

7. Have a body like ACAS act as an arbiter for whistle blowers to contact if they do not feel comfortable talking within their own organisation or their organisation was not willing to listen. The recent case where consultant paediatricians raised the issue about babies dying and concern over a nurse, subsequently having to apologise to her then finding out they were right all along and she has now been incarcerated is clearly another case of protectionism and not a thorough investigation done. The Executive Nurse manager and senior hospital staff should all have been removed or demoted from their roles as a direct consequence.

Submission 27, Janine Wigmore

Q1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

1. The primary reason why public bodies fail to address problems is a culture of 'institutional defensiveness' and denial - as identified by the Right Reverend James Jones' report on the failings of public bodies following the Hillsborough disaster: 'The patronising disposition of unaccountable power'.

   I am responding to this consultation as an individual who has experienced institutional defensiveness from public bodies across education, health and social care.

   This culture of defensiveness thrives simply because it can. Public bodies wield enormous power, and as the Jones report points out, it is the unaccountable nature of this power that allows this culture to continue.

   This imbalance of power is innate to public roles where 'professional opinion' trumps all and cannot be challenged.

   Your terms of reference document states the need for 'a healthy organisational culture', but this can only be achieved if appropriate checks and balances on this power are in place.

   I wish to give two examples from my personal experience with suggested solutions.

2. First, as the parent of a child with a severe learning disability, I requested urgent help from social services for high risk behaviours. I was told none was available, and when I complained was instead subjected to a child protection investigation. The social service team acted to defend itself rather than offer support. The investigation process can only find failings on the part of parents (not services) and only recognise the social worker's professional opinion. My evidence to the contrary was dismissed with no means of redress.

2.1 A potential solution would be for members of the public to be entitled to a second professional opinion across all public services. The NHS has recently introduced Martha's Rule, where concerned patients and carers have access to a rapid review from a separate team. The same should apply, for example, to social care and education. This review should be immediately available during an assessment process, and be distinct from a complaints or appeal process which are typically accessed after a decision has been made.

2.2 A further solution, as recommended in the Jones' report would be to introduce a 'duty of candour' across all public bodies. It was disappointing, however, that the

government recently decided not to do this. A review of the duty of candour in health and social care providers has been undertaken, but this would not cover all aspects of health and care services or commissioning.

3. In the second example, I reported that a Head Governor of a primary school had breached their code of conduct, failing in his responsibility to 'maintain the ethos and reputation of the school and ensure actions in the community reflect this'. An investigation found that although unethical conduct had occurred, it was up to the Head Governor to 'consider his own position' (he of course chose not to resign), and that there was no further action they could take.

    On seeking advice from the DfE I was told that it was entirely legitimate for the school to give the Head Governor the responsibility of deciding the outcome of the complaint against him – which completely undermines any complaints process.

3.1 No individual in a position of authority in a public service, whether it be a Head Governor or a Prime Minister, should have the autonomy to decide if they continue in post, when there is evidence that they have failed to follow the principles of public life, or if there is evidence of any unethical conduct.

    This should be a collective not an individual decision, with external scrutiny. It is disappointing, however, that this review will not consider scrutiny by external bodies. This is the only real way accountability of public services can be upheld and is currently not sufficient.

4. I would like to add that public service unions should also be covered in this review, as the principles of public life should apply equally to them. Currently only professional members can access union complaints processes. Any member of the public who has evidence relating to the conduct of public service union officials should also be able to raise a complaint – as this would be a matter of public interest.

Q7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

5. A blame culture exists within public bodies, but it is predominantly a culture of 'institutional defensiveness' - blaming others to deflect from service failings.

    I give the example of parent blame, which is widely experienced by families of disabled children. This has been documented, for example, in research by the University of Leeds, and by the Chief Social Workers.

    The case of Connor Sparrowhawk, and the treatment of his mother by the NHS Trust responsible for his death highlights this institutional behaviour.

6. To change this culture to one of mutual respect, openness and learning, there needs to be a shift in the current power dynamic. A solution would be for the implementation of shared decision-making, which is a principle enshrined in the NHS constitution, to be strengthened and for this to cover all public services including education and social care.

6.1 For example, it should be a requirement for care assessments for disabled children to be co-produced where there are no safeguarding concerns related to parenting. As experts on their own children, parent/carer views and evidence should carry equal weight with professional opinion, and recommendations for care and support should be jointly agreed.

6.2 There should also be transparency in decision-making, with all panels responsible for decisions in education, health and care services having representation from people with lived experience. They should see evidence directly from and report outcomes directly to, individuals, families and carers affected by their decisions. In contrast, for example, my recent experience of trying to access Continuing Health Care funding is that decisions are made by a 'closed shop' with no written communication, no rationale offered and no effective means of challenge.

7. I would also add (in relation to my response to Q1) that public service unions should be covered in this review, as they have a key role to play in building an open culture in public services. Instead, they have a culture of institutional defensiveness themselves. Public service unions should be publicly accountable and not just to their internal membership.

Submission 28, Paul Woods

1) The Author.

- Paul Woods BPharm MA(Medical Ethics & Law).

- Councillor, Gawsworth Parish Council; Retired Compliance and Ethics Professional

   a) This submission is sent in a personal capacity. I am a Parish Councillor and previous Chair of Gawsworth (Cheshire East) Parish Council. I am now retired from paid work but had 30 years experience in compliance and ethics in healthcare, working at the interface between the private and public sectors. I have a first degree in Pharmacy and a master's degree in 'Medical Ethics and Law'. I worked for the headquarters of one of the largest international pharmaceutical companies (AstraZeneca) based in the UK with my final role being International Director of Compliance Policy. I specialised in the writing, review and operation of marketing and communications Codes of Conduct contributing to International (IFPMA), European (EFPIA) and UK (ABPI) committees and represented the pharmaceutical industry on code and communication matters opposite the European Commission, the UK MHRA and various other bodies. From 2011 - 2018 I ran a compliance and ethics consultancy working with small and large healthcare companies, medical societies etc.

   b) After retirement I was elected to join my village Parish Council and became an enthusiastic Parish Councillor. I have raised a number of compliance and ethics concerns relating to Cheshire East Council and recently ChALC (Cheshire Association of Local Councils) and NALC (National Association of Local Councils). These have led to my reflection on processes to improve ethical standards in local government which I discuss below.

   c) I have a career long belief in the benefits of codes of ethical conduct and have worked to improve their effectiveness.

   d) I am delighted the Committee on Standards in Public Life is inviting contributions on accountability in public bodies and is making particular reference to the Nolan Principles. I hope my thoughts, made with reference to my experiences, are helpful to you.

2) Preliminary thoughts

   a) As I write this Sir John Curtice of the National Centre for Social Research reports that trust and confidence in the UK's politics and election system has never been worse. In recent years the behaviour of our most senior government leaders has seemed almost devoid of any moral compass and understandably they seem not too keen on promoting 'ethics'. This must surely have had a detrimental effect of on public bodies at lower levels. Even so in my Parish Council, under the leadership of our clerk and chairs, I am confident that we have behaved with all due respect to the Nolan Principles'

   b) I suggest that looking to the health sector for examples of good practice in the application of ethical principles could be fruitful for public bodies. Both local government and the health sector are subject to legislation, regulations and associated guidance with the possibility of legal action against individuals and organisations. Both have codes of ethical practice but the minimal practical role played by the Nolan principles in maintaining ethical standards in local government

contrasts markedly with the prominent role that codes of practice play in healthcare in the UK.

c) The self-regulation system that governs healthcare sector standards is based on respected and well-known codes of practice supported by a large body of case reports, effective and independent adjudication processes and transparency. My experience centres on the codes governing interactions between the healthcare industry and health professionals and I refer specifically to the UK ABPI code of Practice[75] and the European EFPIA codes[76].   Self-regulation in healthcare is trusted and relatively cheap.   Codes are developed and changed with involvement of those who are subject to them and those who are affected. This results in buy-in from those who are subject to codes and a genuine desire to see wrongdoing exposed and proportionate actions taken. Regulatory procedures and legal action are always there to step in if necessary but in the majority of cases independent adjudication settles the matter. 'Memoranda of understanding' are agreed between the MHRA, the regulatory body that applies the law and the ABPI which owns and runs the Code of Practice (through PMCPA – Prescription Medicines Code of Practice Authority). Notably, the synergistic collaboration between government regulation and self-regulation works very well in the UK, variably well across Europe but much less well in the USA where formal legal action and big financial penalties dominate.

d) A wholesale 'cut and paste' of good practice from healthcare ethics to the local (or national) government would be impractical. Nevertheless I submit that much could be learnt from the healthcare model which could lead to an evolution of culture towards a more healthy application of ethical principles in local, and perhaps national government. There could be independent ethical review. There could be peer pressure to behave in an ethical manner. There could be a code which is well known and well understood which every (or nearly every) councillor and local authority officer strives to abide by. I suggest that you consult the self-regulatory and government regulatory bodies that deal with healthcare communications and professional practice in the hope that some of their experience might be transferrable.

3) Response to Consultation Questions

1. What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

● I recommend that you review the Public Interest Report[77] into Cheshire East Council. There were several police investigations prior to the report which did not result in any prosecutions but the auditor's report goes beyond the central concerns about the behaviour of a previous leader of the council and contains useful observations about councillors, political parties, council officers and leaders and council processes that are relevant to your current consultation.

● Local authorities are underfunded and struggle to deliver basic services. When a problem arises it threatens to disrupt delivery. There is a temptation to not devote limited resources to problem investigation and resolution.

● The response to complaints can be to deny there is a problem or ignore it.   There seems to be no incentive to deal with a complaint quickly. The complainant will probably give up

---

75 ABPI 2021 Code of Practice
76 The EFPIA Code
77 Public interest report January 2023 (cheshireeast.gov.uk)

and go away as it's a fair bet that they don't have the expertise or wherewithal to pursue the matter further.

- Where a problem concerns possible legal and ethical issues my perception is that lawyers appear to take over. Their job is to defend the council. Things get much 'heavier' than they perhaps need to because there is no alternative route that can deal with ethical questions in a proportionate way. Different methods may be necessary to deal with multi-million pound disputes compared with routine citizen concerns.
- There does seem to be a split in thinking between the legal route and the ethical code route about how 'problems' are best dealt with. Lawyers live in their culture of courtrooms, precisely worded and unintelligible (to you and me) papers, confrontation and an end point of a Guilty or Not Guilty decision. The ethicist lives with debate and accepts uncertainty while realising that a decision must be made on what route to take. Laws stay in place for decades but ethical codes evolve and develop more nimbly. The law is difficult for Joe Bloggs to access but a complaint to an ethical adjudication body can be put together fairly easily. The law is slow and very expensive while code adjudication is relatively quick and inexpensive. Councils employ a department of lawyers but not a single ethicist.
- Problems often arise because someone believes something is 'wrong'. As in healthcare, complainants are looking for information and explanation, for acknowledgement of the validity of their concerns and maybe for an apology. The legal department in their role to protect the Council may well advise against providing any of these for fear of compromising the council's position should legal action result – which in most run of the mill problems is extremely unlikely.
- At its worst public bodies simply won't engage to answer concerns about their conduct, particularly if they realise they have slipped up. My example d) describes one such case which I find particularly worrying as it involves a representative body which advises and provides leadership to local councils. It's not a good role model.
- Councils appear not to be learning organisations in the way that the company I worked for was. The hackneyed phrase that every complaint is a gift perhaps has some truth in it. Reflection is important on how repeats might be avoided or if there is learning to be had even when a complaint is denied.
- The borough council's idea of consultation can be very different from that I experienced while working on national and international codes. Borough Council projects are not developed in true partnership with stakeholders such as Parish Councils. This is improving but true cooperation has yet to be seen at a project level. This can cause confrontation and delays.

2. Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance and training?

- Currently there is woefully inadequate attention given to ethics, including the Nolan Principles, in local government and indeed national government. Policy documents, reports etc should be required to include a statement on conformity with each of the seven Nolan principles. This will force ethics to be considered.
- With my background in ethics and I have an unusual interest in the Nolan Principles but I believe the majority of councillors, have very limited knowledge of ethics and how it can be applied to their work over and above their personal values. Local council associations provide training on these matters yet there is no compulsion to attend. Councillors should have their attendance at accredited training on ethics openly recorded and this should be admissible in cases where the councillor is subject to code proceedings. Codes should

not be presented as sets of rules to be obeyed but understanding and working through ethical decision making should feature.

- Attendance at annual ethics training should be made a condition of employment for all Local Government employees. (It was in my last company). Training should be tailored to roles.
- Discussions and decision making are guided by lawyers advising on regulations and laws. Compliance with laws and regulations does not equate with ethical behaviour although there is significant overlap. There is no provision for ethicist input or decisions being routinely subjected to ethical calculus.
- In the pharmaceutical and other industries compliance and ethics has developed as a separate role from the legal department reporting into the chief executive. This model should be pursued in public bodies. Local government lawyers cannot fulfil their role to advise and defend the authority while also promoting, advising and adjudicating on ethical matters.
- Recourse to independent adjudication is essential to resolve complaints and concerns about local authority conduct. Adjudication bodies should be made up of peers and non-aligned members. It is inappropriate for adjudication for a town or parish council code to be undertaken by the borough council.
- The current ombudsman's remit is too narrow. It cannot accept complaints from a Parish Council and he is unable to rule on many matters.
- There is a poor understanding of conflict of interest in local authorities with almost exclusive focus on financial matters. Education is needed.
- Description of the 'right' course of action has been hopelessly degraded by politicians claiming that their party policy is the 'right thing to do' when they and their parties are in reality, and in public perception, anything but ethical. Language used when describing ethics should account for this.
- Cheshire East Council has two codes of ethics, one for councillors and one for employees. When it was decided an update was needed only the code for councillors was updated leaving the two codes out of synchronisation. I am left with the impression by this, and a number of other initiatives, that a primary objective seems to be to protect council officers from obnoxious councillors. That may be a worthy cause but it avoids what should be the primary focus which is to embed the full range of ethical principles into ALL of local government. Councillors and the administration should share responsibility and standards.

3. Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

- Evidence based decision making is crucial. Data should be produced according to good data handling and processing principles. Any tendency for political imperatives to lead to the misuse and misinterpretation of data must be resisted and called out.
- Good scientific principles must be applied the processing and interpretation of data. I'm not convinced that science is always well understood in local authorities. More scientists should be employed.
- Where challenges are made to data management and interpretation there must be the opportunity for this to be openly and independently assessed. I have made challenges to data use and interpretations which have been met with only vague denials but no detailed response to detailed concerns.
- I have gained the impression that the risk of legal action carries great weight. The risk of being publicly exposed for breaking ethical principles may be seen as less important. Public bodies should include risks of non-conformity with the Nolan Principles in their risk

register and promote damage to the organisation by unethical behaviour as a significant risk.

- Transparency of data and reports are important yet sometimes Local Authorities don't seem very keen on openness. Key data may remain hidden unless someone makes a freedom of information request. The default position should be actively making data available unless there is a good reason not to.

4. Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

- This depends on greater openness than is currently the norm. The co-regulation system that operates for healthcare marketing and communication (see introductory remarks) publishes detailed case reports and an annual report analyses trends and emergent issues. These are then fed into the drafting of detailed guidance on issues and regular updates of the code of practice.
- As a Parish Councillor I choose to subscribe to the ombudsman updates but I receive no regular updates on ethical matters relevant to my work. NALC and ChALC do distribute regular newsletters which might cover some ethical topics. Regular news and views to councillors and Local Authority employees on ethical matters could be very helpful.
- How about a highly visible role of a public ethicist? Maybe a chair in public ethics occupied by an inspirational communicator? Communications teams should promote ethics.

5. What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

- Cheshire East Council (CEC) have instituted regular meetings where Town and Parish Council representatives are updated and can question senior Council Officers. These are extremely helpful in providing feedback to CEC and for raising issues of concern. We can identify areas where we are experiencing similar concerns to our peers.
- Identifying a responsible contact officer, who is open to being contacted and will respond, for each area of operation can significantly improve matters.

6. How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

7. Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

- The public interest report on Cheshire East Council[78] includes some observations on how unacceptable and unethical behaviour was allowed to persist for so long and includes recommendations. Well worth a read.
- Independent whistleblower helplines, run by independent organisations, proved helpful in the organisation I worked for. The treatment of whistleblowers in the health service however has sometimes been despicable. The independence of the whistle-blower helpline is essential for trust.   The organisation contact responsible for whistleblowing should be the compliance and ethics officer – not the legal department or HR.
- Establishing an ethics and compliance department or individual would be very helpful. In my former role I was regularly consulted, formally or informally, about employee's

---

[78] [Public interest report January 2023 (cheshireeast.gov.uk)](cheshireeast.gov.uk)

concerns. The consultations could be in confidence and I could advise, reassure and take appropriate action towards a resolution.

- There has long been concern about the conflict of interest when Councils make planning applications to their own planning departments which concern land which they own, or are themselves developing or which they otherwise have a pecuniary or non-pecuniary interest in. (see example A below). A private members parliamentary motion came forward a couple of years ago on this subject.[79] which promised to improve scrutiny and transparency by establishing "independent local planning processes to determine housing development planning applications submitted by local authorities" Lack of time meant that the Bill was not enacted. The principle is the same as I espouse elsewhere i.e. there is a need for independent review of local authority decisions where there is, or could be, a conflict of interest.
- Party political interests can get in the way of ethical behaviour. Raising concerns about unethical behaviour in a fellow party member can be very difficult as the Cheshire East Public Interest Report identifies. Being able to raise concerns anonymously is important.

8. The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

- My Parish Council takes communication seriously and aims to put as much as possible information about what we do into the public domain. We have a communications group to which local organisations are invited. We have a website and a Facebook page to communicate Parish business with regular posts We have a second Facebook group which with highly active chat among 1500 members (village population 1700). We live stream all our Parish Council meetings on ZOOM and our Facebook page. Residents can contribute to the public participation sessions in the room or on ZOOM. Comments on the Facebook stream as also relayed to the meeting.
- Unfortunately, examples of bad practice also come to mind. The concept that information in public bodies must be made freely available unless there is a valid reason for not doing so requires further promotion.
- There was a good example of Cheshire East Council policies and procedures being available on their website. This was helpful because unless you know that there is a policy on a particular area you have no way of scrutinising the council. Unfortunately, the policies were removed and when I asked for them to be reinstated, CEC said they were too busy to do so. It seems to me that CEC do not welcome scrutiny. All councils should be required to publish ALL their policies, procedures and associated documents on their website.

4) Examples

a) Concerns over veracity and interpretation of data – Housing Needs Survey

I submitted concerns about a housing needs survey which was being used by Cheshire East Council in support of their planning application to their planning department. My concerns included that the Parish Council had not been properly involved in conducting the survey, that only a summary was made public, that the analysis and conclusions had not been reviewed by anyone independent of the planning application that it supported. I had further concerns about the veracity of the data and the interpretations the council had made. My

---

[79] Private members bill Planning Local Authority Housing Developments.pdf

concerns were largely dismissed by the council using general assertions rather than by providing further information and detailed discussion of the data handling concerns raised.

b) Concerns over the handling of a planning application by Cheshire East Council to its own planning department

The Parish Council and I, as a Parish Councillor, raised several concerns about the handling of a planning application by Cheshire East Council to their planning department as referred to in a) above. The concerns centred around conflicts of interest interfering with a truly detached and objective treatment of the application by the planning department and poor quality of the data in certain reports. The planning application was refused on other grounds and as far as I know no lessons about ethical and compliant process were learned. I did not pursue further concerns that the planning committee might have been misled by withholding certain information feeling it was pointless to do so.

c) Apparent lack of awareness of Conflict of Interest issues when preparing a supplementary Planning Document

Cheshire East Council prepared a draft Supplementary Planning Document referring to Jodrell Bank Observatory (University of Manchester), Jodrell Bank has and continues to be an applicant for planning permissions and is a statutory consultee on planning applications in a specified zone around the establishment. Planning guidance was badly needed since the existing situation was that Jodrell Bank had, in effect, operated an unjustified veto on applications from other applicants.

The draft SPD produced by the council showed no apparent understanding of conflicts of interest and even incorporated tracts of Jodrell Bank Policy into draft Council planning policy. It didn't recognise the Council's responsibility to ensure proper use of open, sound scientific and objective analysis in making planning decisions. We await further developments.

d) Handling of a query over a probable breach of the Equality legislation by the National Association of Local Councils

The Cheshire Association of Local Councils published an advertisement and the National Association of Local Councils (NALC) published a BLOG that both appeared to breach equality legislation and the Nolan Principles. I set out my concerns with reference to regulatory and ethical principles. I asked for clarification on the principles raised by the apparent breaches of the law and unethical behaviour and queried how they proposed to avoid future breaches. NALC have refused to engage in any way with me despite exhortations from my MP and others.

e) Introducing a Member-Officer protocol into town and parish councils

A novel member-officer protocol document was circulated by the Cheshire Association of Local Councils to Town and Parish Councils introducing new 'rules' which councils were invited to adopt. While it contained good content it was developed with no consultation that I am aware of with the population that it sought to govern. It thereby breaks the fundamental requirement for codes to gain buy in. It also introduced controls on councillors (albeit not unreasonable ones) that did not apply to officers giving the impression that the document wasn't primarily about member-officer interactions but rather to control councillors.

f) Removal of Policies and Procedures from Council website

Cheshire East Council policies and procedures used to be available on their website. Most policies were removed during a refresh and when I asked for them to be reinstated I was told that they agreed they should be there but they were too busy to reinstate them.

g) Failure to be actively open about data and information

A recent, and as yet uncompleted highways project was dogged from the beginning with failure by Cheshire East Council to collaborate openly with the Parish Council. In the early stages requests for updates or information went unanswered and a request for information on a speed limit review, which should have been freely available, revealed it hadn't been done. Then in the later stages when a small group were objecting to the proposals and the parish council was supporting the borough council in identifying and answering concerns the existence of a crucial supportive report only emerged after a resident's freedom of information request. I personally could have been saved several hours of difficult conversations had the data been freely available.

Submission 29, Alison Wright

Dear Committee on Standards in Public Life,

1. Thank you for the opportunity to provide input into the review on accountability in public life (2024-03-21 Accountability within public bodies - open consultation final (publishing.service.gov.uk)). The issues you are addressing are of critical importance to ensuring transparency, integrity, and effectiveness within our public institutions.

2. I am writing this independently of any institution. With a background in Systems Engineering and extensive experience in designing and implementing public sector IT solutions, including cross-Ministerial performance management systems, health management, and crime reporting systems, I have been actively involved in ensuring accountability and integrity throughout my career.

3. More recently, I have been voluntarily preparing due diligence reports that scrutinise the integrity of individuals responsible for various Public Bodies. For example, ██████████ ██ . ███████████████████████████████████ ████████████████████████ ██ ██ ██ ████████████████████████████████████ My repeated attempts to report the methods enabling widespread fraud have been deflected and remain inadequately investigated.

5. I am encountering the risk highlighted by officers of the Botswana Police Force when I was selling them crime reporting systems. "The trouble with crime reporting systems is that you can deliberately or inadvertently restrict what information you allow an individual to report, such that insufficient detail is provided to enable an investigation." In my experience, this is the case with synthetic identity fraud and clone company fraud. The Action Fraud reporting system provides fields for linking information that are too short to hold Companies House addresses. This field in the reporting system needs to be increased, yet repeated attempts to raise this issue go unaddressed, suggesting that this restriction is deliberate.

6. Synthetic identity fraud, though described by the Cabinet Office and referenced in law (Section 1082 of the Companies Act 2006) and some guidance, has not led to prosecutions. The Crown Prosecution Service has never prosecuted such crimes. Consequently, the International Standards for Auditing do not specify processes to identify and take appropriate action, and the Action Fraud reporting system fails to provide the fields required to report it.

7. This practice extends to appointments to positions, such as at a regulator, where individuals can defend attempts to close the loophole. The use of synthetic identities established by an individual in Companies House using a variation of the three attributes that are used to create an unique identifier, in order to create multiple unique identifiers, conceals linked directorates operating without accountability or oversight. Regulatory and investigative

powers delegated to individuals using this method of fraud pose a high risk of participation in money laundering, terrorism funding, or people trafficking.

8. Despite the recognition of the threat, there exists a notable gap in proactive measures to address it. Companies House, for instance, acknowledges its authority to merge duplicate records but lacks a proactive approach, leaving vulnerabilities unaddressed and any changes untraceable. Furthermore, auditing standards such as ISA 240 (UK) lack explicit consideration of keywords associated with synthetic identity fraud, hindering the identification of undisclosed interests and leading to material misstatements in financial reporting.

9. Moreover, law enforcement guidance and reporting systems are ill-equipped to handle the nuances of synthetic identity fraud and cloned company fraud. While there is a focus on imposter fraud, the oversight of synthetic identity fraud and cloned company fraud hampers individuals attempting to report such cases, risking breaches in anti-money laundering, counter-terrorism, and cybersecurity legislation.

10. To address these challenges and strengthen accountability within public bodies, I propose the following measures:

Expanded Guidance and Protocols: Law enforcement guidance and auditing protocols should be updated to explicitly address synthetic identity fraud and cloned company fraud, enabling more effective detection and reporting of fraudulent activities. Enhanced Reporting Systems: Reporting systems such as Action Fraud should be tailored to accommodate the nuances of synthetic identity fraud, enabling individuals to report such cases more effectively and facilitating appropriate law enforcement action. Proactive Measures by Companies House: Companies House should adopt a proactive approach to identify and address instances of synthetic identity fraud, providing traceability to facilitate later investigation, minimising vulnerabilities, and safeguarding public trust.

11. In conclusion, addressing the threat of synthetic identity fraud and other forms of fraud requires collaborative efforts to enhance guidance, protocols, and reporting systems. By taking proactive measures to combat these evolving forms of fraud, we can strengthen accountability within public bodies and uphold the principles of public trust and safety.

12. Thank you for considering these recommendations in your review of accountability within public life. Please find my responses to the consultation questions below.

1. Question: What are the main reasons why public bodies might fail to act quickly and decisively at the first sign of a problem within the organisation?

Public bodies may fail to act quickly and decisively due to various factors, including inadequate awareness of the problem, lack of clear protocols for addressing issues related to synthetic identity fraud and clone company fraud, fear of repercussions or negative publicity, bureaucratic red tape that slows down decision-making processes, and the widespread abuse of synthetic identities by individuals in positions of control within the executive, legislature, and parliament. This undermines the systems of accountability and creates a culture of impunity. Additionally, the lack of prosecution and reporting systems tailored to synthetic identity fraud exacerbates the problem.

Role of Synthetic Identity Fraud: Synthetic identity fraud enables individuals to conceal their true identities and interests, manipulate decision-making processes, and compromise the integrity of critical decision points. Addressing synthetic identity

fraud is essential to ensuring the timely and decisive response of public bodies to emerging problems and maintaining the integrity of democratic processes.

2. Question: Can you describe any examples of practical measures used by public bodies to ensure that employees are guided by the Nolan Principles at critical decision points, including but not limited to decision-making models, codes of conduct, guidance, and training?

Public bodies can implement practical measures to ensure adherence to the Nolan Principles by developing comprehensive decision-making models, codes of conduct, and guidance that explicitly incorporate ethical considerations and accountability mechanisms. Regular training and development opportunities for employees on ethical decision-making and the importance of transparency and integrity can reinforce these principles within the organisation.

Role of Synthetic Identity Fraud: Synthetic identity fraud undermines the effectiveness of measures designed to uphold the Nolan Principles within public bodies, compromising the integrity of critical decision points.

3. Question: Public bodies are required to manage a variety of risks to the successful delivery of public services. What role can data play in understanding these risks?

Data plays a crucial role in helping public bodies understand and manage risks to the successful delivery of public services. By analysing relevant data sources, public bodies can identify potential risks and vulnerabilities proactively, enabling them to develop targeted risk mitigation strategies. Data analysis can also help identify patterns and anomalies indicative of synthetic identity fraud, allowing public bodies to take pre-emptive action to mitigate these risks.

Role of Synthetic Identity Fraud: Synthetic identity fraud introduces significant risks to public bodies, including financial loss, reputational damage, and compromised service delivery. Data analysis can help identify patterns and anomalies indicative of synthetic identity fraud, allowing public bodies to take pre-emptive action to mitigate these risks.

4. Question: Are you aware of any examples of organisations that have good processes in place for identifying patterns and spotting problems that need addressing?

No, there is no evidence of anyone identifying synthetic identity fraud, hence it has not been prosecuted. Synthetic identity fraud presents unique challenges for organisations seeking to identify patterns and spot problems. Traditional detection methods are ineffective against sophisticated synthetic identity schemes, requiring organisations to adopt innovative approaches to fraud detection and prevention.

Role of Synthetic Identity Fraud: Synthetic identity fraud presents unique challenges for organisations seeking to identify patterns and spot problems. By leveraging advanced analytics and artificial intelligence technologies, organisations can enhance their ability to detect and respond to synthetic identity fraud effectively.

5. Question: What practices and behaviours can the boards of public bodies adopt to ensure that they have proper oversight of their organisation?

Boards of public bodies can adopt several practices and behaviours to ensure proper oversight of their organisation, including establishing clear governance structures, defining roles and responsibilities, promoting transparency and accountability, and fostering a culture of integrity and ethical conduct. Additionally, boards should regularly review performance metrics and financial reports, conduct independent audits, and engage with stakeholders to identify areas for improvement.

Role of Synthetic Identity Fraud: Synthetic identity fraud poses a significant challenge to the oversight efforts of public body boards. By prioritising transparency, accountability, and ethical conduct, boards can create an environment that discourages fraudulent behaviour and promotes trust and confidence among stakeholders.

6. Question: How should public sector bodies conduct their annual board effectiveness evaluations? What does best practice look like?

Public sector bodies should conduct their annual board effectiveness evaluations through a comprehensive and systematic process that assesses key performance indicators, governance practices, and board dynamics. Best practice involves engaging an independent third party to facilitate the evaluation process, ensuring objectivity and impartiality. Additionally, evaluations should incorporate feedback from board members, stakeholders, and external experts to provide a holistic assessment of board performance.

Role of Synthetic Identity Fraud: Synthetic identity fraud underscores the importance of rigorous board effectiveness evaluations within public sector bodies. By integrating considerations of fraud prevention and detection into their evaluation processes, boards can enhance their effectiveness and resilience in the face of evolving threats.

7. Question: Accountability in public life can sometimes be associated with blame. How can public bodies build a culture where people feel safe to speak up about concerns, allowing problems to be addressed early and lessons to be learned?

Public bodies can build a culture of accountability and transparency by fostering open communication, promoting a supportive and non-punitive environment, and providing mechanisms for reporting concerns anonymously. Leadership should lead by example, demonstrating a commitment to ethical conduct and accountability in their own actions and decisions. Training and awareness programs can also help employees understand their role in upholding organisational values and encourage them to speak up about concerns without fear of reprisal.

Role of Synthetic Identity Fraud: Synthetic identity fraud can undermine efforts to build a culture of accountability and transparency within public bodies. By promoting a culture of vigilance and integrity, public bodies can empower employees to speak up about suspicious activities and contribute to the organisation's overall accountability and effectiveness.

8. Question: The Nolan Principles of honesty and openness require public bodies to be transparent about how they operate and the decisions they make on behalf of the public. Are you aware of any examples of organisations exhibiting good practice in this area?

While there may be examples of organisations exhibiting good practice in transparency and openness, it's essential to acknowledge the pervasive threat posed by synthetic identity fraud and clone company fraud within public bodies. These fraudulent practices, potentially conducted by officials in the executive, Parliament, legal system, and police, undermine the very principles of honesty and openness.

Role of Synthetic Identity Fraud: Synthetic identity fraud and clone company fraud enable individuals to conceal their true identities and interests, facilitating covert operations within public bodies. Such fraudulent activities compromise transparency and openness by allowing officials to manipulate decision-making processes without public scrutiny. The lack of awareness and proactive measures to address these fraudulent practices further exacerbates the challenge of maintaining transparency and openness within public institutions.

13. In conclusion, while examples of good practice in transparency and openness may exist, the pervasive threat of synthetic identity fraud and clone company fraud highlights the need for enhanced vigilance and proactive measures to safeguard the integrity of public bodies. Addressing these fraudulent practices is paramount to upholding the Nolan Principles and restoring public trust in governance institutions.

Yours sincerely,

Alison Wright.