

Measuring the Impact of the Committee for Standards in Public Life

Michael James Macaulay

*Teesside Business School
University of Teesside
Middlesbrough TS1 3BA, United Kingdom*

This article assesses the impact of the UK's Committee for Standards in Public Life (CSPL) in six key areas of political and public service: Ministers and the Executive, Members of Parliament, the House of Lords, local government, Non-Departmental Public Bodies, and electoral reform. It will argue that the CSPL has had a demonstrable impact in terms of the number of recommendations that have been turned into legislation and also the number other standards and ethics agencies that have subsequently arisen within the UK. It will also suggest, however, that standards problems do remain, and that the CSPL's impact on public perception of standards has been somewhat less positive.

Raktažodžiai: *standartai, etika, viešoji tarnyba.*

Keywords: *standards, ethics, public service.*

Introduction

The creation of the Committee for Standards in Public Life (CSPL) may be considered a key moment in the recent political history of the UK. The CSPL was established in 1994 by Prime Minister John Major as a direct response to charges of corruption and sleaze against his own government. Since then it has produced 9 reports (a tenth is currently awaiting publication), looking at key areas of public service, including: Ministers and Members of Parliament (MP), civil servants, non-elected public bodies, local government, the House of Lords, the electoral system, and, the National Health Service. The CSPL has had a demonstrable impact in terms of the number of recommendations it has made that have been turned into legislation and also the number other standards and ethics agencies that have subsequently arisen within the UK. Arguably the CSPL's biggest impact is simply its own existence, which has enabled it to revisit and revise its recommendations and continue to set its own agenda. The impact of the CSPL on public opinion, however, is much more difficult to ascertain and research by the committee itself indicates that the UK public still do not trust their

politicians and public servants. This paper will outline the reasons behind the creation of the Committee for Standards in Public Life before looking at its structure, mission and boundaries. It will then draw upon each of its reports to see how far its recommendations have been translated into legislation. Finally it will address the complex concept of 'impact' and ask whether or not it has changed public perception, or simply shifted it to other areas of public concern.

Contributory Factors to the Creation of the Committee

By the mid 1990's the UK Conservative government was beset by scandals and allegations of corruption particularly regarding the sex lives of Ministers and MPs, and to pursuing private interests through lobbying. Much of the latter was due to the radical nature of Margaret Thatcher Conservative governments' legislative reform programmes during the 1980s. These demanded almost constant access by companies to government ministers as well as the more traditional lobbying of government departments, which led to the growth of lobby firms either employing or run by Conservative MPs (who were assisted by the privileged access to the House provided by their employment of lobbyists posing as their 'research assistants'). Many MPs became involved with lobbying because they were unlikely to be considered for political advancement. They

Michael James Macaulay – Teesside universiteto (JK) Verslo mokyklos mokslinis bendrabinis.

El. paštas: m.macaulay@tees.ac.uk

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were also aware that the intertwining of ideological and personal financial interests was mutually reinforcing, leading “to a progressive legitimisation of behaviour that is more and more removed from the original boundaries of probity ...” [1, p.186].

The number of scandals involving MPs and the increasingly overt activities of lobby firms led the Parliamentary Select Committee on Standards and Privileges¹ to produce three general reports in 1991 and 1992 relating to declaration of interests and Select Committee membership, parliamentary lobbying, and the registration and declaration of Members’ financial interests. These were intended to make internal procedures clearer and more explicit so that ‘Members’ perceptions of these issues’ would be sharpened to remove the threat that they would need to be codified by statute and involve outside agencies in the business of the House. Said the Committee: “the intervention of the criminal law, the police, the law and the courts of law in matters so intimately related to the proceedings of the House would be a serious and in our view regrettable development, and would have profound constitutional implications” [2].

This last-ditch attempt to persuade MPs to abide by the internal House rules came at an awkward time for the Conservative government, with growing public discontent and dissatisfaction over the effects of the long-drawn-out economic recession, perceived cuts in public services, the threat of middle-class unemployment, and the continued absence of economic recovery.

At the same time there were a number of political scandals and ministerial resignations over what might be termed injudicious sexual and financial relationships, compounded by a general hostility to what were termed the ‘fat cat’ salary increases and share options available to the directors of privatised utilities. This led to an ill fated attempt by then Prime Minister John Major to try to seize the moral high ground, unveiling his ‘Back to Basics’ campaign in October 1993. While the campaign sought to promote ‘family values’ of the party, it proved disastrous when a number of Tory MPs and junior Ministers were revealed to be involved in a variety of sexual escapades at variance with those family values and private morality which the Government espoused publicly. The scandals became bound up with the use of the word ‘sleaze’, which served as an easily

identifiable outlet for public disaffection with the government [3].

Worse, a number of ministers were to resign over their financial interests as MPs, or over allegations that they had used their parliamentary office for private gain. Four were significant. Graham Riddick and David Tredinnick were suspended as Parliamentary Private Secretaries² in July 1994 pending an inquiry into newspaper allegations that they had been prepared to accept £1,000 each to table parliamentary questions. Neil Hamilton and Tim Smith, respectively Corporate Affairs and Northern Ireland Ministers, were accused in October 1994 of having received payments and other benefits in connection with Mohamed Al-Fayed, the owner of Harrods, directly and through a lobby firm, allegations that were already known to the Prime Minister. An internal inquiry was undertaken by the Cabinet Secretary as Greer and Hamilton issued writs (and whose libel trial subsequently collapsed). While the latter denied the allegations, Smith agreed that he had accepted money and resigned. Hamilton was forced to resign later the same day by the Prime Minister who announced within days the establishment of a Committee on Standards in Public Life chaired by a judge, Lord Nolan.

Structure, mission and boundaries

Since its inception the CSPL has had four chairs: Lord Nolan, Lord Neil (appointed November 1997), Sir Nigel Wicks (appointed March 2001), and currently Sir Alistair Graham (appointed April 2004). Its original terms of reference were “to examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and to make any recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life” [4; ii]. On the appointment of its new chair, Lord Neil, in November 1997 Prime Minister Tony Blair added the following terms of reference: “to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements”.

For the purposes of the CSPL’s terms of reference, “holders of public office” referred to a number of categories including: Ministers, civil servants and special advisers; Members of Parliament and Members of the European Parliament; Members and Senior Officers of Non-Departmental Public

¹ Parliamentary Select Committees – are investigative committees made up of MPs (and sometimes Lords) look at certain policy areas and producing reports on particular topics.

² Parliamentary Private Secretary – is the most junior level of Ministerial responsibility, and is an unpaid post.

Bodies (NDPBs), and NHS bodies; Non-Ministerial office holders; Members and Senior Officers of other bodies responsible for spending public money; and elected Members and Senior Officers of local authorities [4].

The CSPL, therefore has powers to recommend changes, but has no powers to subsequently enforce them. Subsequently the CSPL has held ten public inquiries, and has reported on the standards of these ‘holders of public office’ in their annual reports.

- First Report [4] looked at Members of Parliament, Ministers, Civil Servants, Executive Non-Departmental Bodies, and NHS bodies. The report made 55 recommendations, which helped to establish Codes of Conduct for Ministers and MPs and also resulted in the creation of the Parliamentary Commissioner for Standards and Privileges, the Select Committee on Standards in Public Life, and the Commissioner for Public Appointments. Each of these will be discussed below.
- The Second Report [5] looked at local public spending bodies, and sought to clarify the boundaries in public/private partnerships. This area was regarded as crucial because: “it is a fact of life that today public services are not provided wholly by the public sector, and that boundaries between sectors may not be entirely clear” [5, p.9]. The report made 50 recommendations pertaining to higher education organisations, housing associations and other public bodies.
- The Third Report [6] looked at local government, making 39 recommendations, the majority of which were included in the Local Government Act 2000, becoming known as the ethical framework for local government. These are discussed below.
- The Fourth Report [7] was a review of progress in NDPBs, NHS bodies and local public spending bodies.
- The Fifth Report [8] followed on from Tony Blair’s expanded terms of reference, and looked at the funding of political parties. As a result the report addressed wider issues than simply conduct. The report made 100 recommendations, which informed the Political Parties, Elections and Referendums Act 2000, including the creation of the Electoral Commission. These are discussed below.
- The Sixth Report [9] was a review of the First Report, and made 41 recommendations to further increase Parliamentary scrutiny.

- The Seventh Report [10] looked at the House of Lords. The report made 23 recommendations which led directly to the creation of the House of Lords Code of Conduct, established in July 2001. These are discussed below.
- The Eighth Report [11] reviewed standards of conduct in the House of Commons, and made 27 recommendations overall, including several reinforce the role of the Parliamentary Commissioner for Standards.
- The Ninth Report [12] reviewed the standards of Ministers, civil servants and special advisers and made 33 main recommendations.
- The Tenth Report (2004 – yet to be published) revisits local government and other public bodies.

In its first report the CSPL also established the seven principles of public life, which serve as the core values for those “who serve the public in any way” [4]. The seven principles comprise:

1. **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
2. **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
3. **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
4. **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5. **Openness** – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
6. **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. **Leadership** – Holders of public office should promote and support these principles by leadership and example.

The remainder of this article will assess the impact of the CSPL in six key areas: Ministers and the Executive; Members of Parliament; the House of Lords; local government; Non-Departmental Public Bodies; and electoral reform. It will highlight the main recommendations that have been established and ask whether or not this has led to greater integrity and public trust.

Ministers and the Executive

There are approximately 120 Ministers (Senior and Junior) within the UK government, of whom 25 are members of the Cabinet. Government Ministers are appointed from within Parliament and must be answerable to either the House of Commons or the House of Lords, although convention states that most Senior Ministers are appointed from the House of Commons. The Executive is bound by convention by Cabinet Government and collective Ministerial responsibility over policy decisions.

The CSPL's first report [4] looked at Ministerial rules and procedures, and made 20 recommendations that largely became enshrined in a new Ministerial Code of Conduct in 1997. Until the 1997 Code was established, rules regarding Ministers' conduct had been developed on an ad hoc basis over a 40 years period. The general principle governing Ministers' interests as set out in the Code is that:

“Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise” [13].

The Code stipulates that potential conflicts of interest are the personal responsibility of each Minister, although advice may be sought from their Permanent Secretary³, the Secretary of the Cabinet and even the Prime Minister himself. Upon appointment, Ministers are advised, but not required, to declare in writing any financial interests that may give rise to a conflict. They are advised to list their own personal interests – including financial instruments and partnerships, other financial interests such as real estate, non-financial interests such as links with outside organisations and also previous employment – as well as the interests of their partner or spouse, of children who are minors and

³ Permanent Secretary – is the leading Civil Servant in any given government department.

of closely associated persons. These private interests are then discussed with the Permanent Secretary, and any interests that are retained must be declared to Ministerial colleagues. Advisers can only make such disclosures public with the express permission of the Minister involved.

As a general rule, Ministers are advised to dispose of any financial interests, or at least take steps to prevent a conflict from arising and if this proves impossible, the Minister may be compelled to resign from office. Ministers must also refrain from practicing in any partnerships to which they may belong, although they are not required to resign from them. Ministers must, however, resign from any directorships (honorary or paid) in any public or privately owned companies. This includes directorships or charitable organisations, although it excludes directorships relating to private family estates or companies established to manage flats of which the Minister is a tenant.

The Code also establishes rules on gifts and hospitality that directly relate to recommendations made by the CSPL report as well as rules on post-Ministerial business appointments. As a result of the CSPL recommendations, Ministers should consult the independent Advisory Committee on Business Appointments⁴ if they wish to take up a paid business appointment within two years of leaving office. The committee can recommend a delay of up to two years if it perceives any undue interest or influence. Ministers need not seek the Committee's advice for unpaid appointments.

All of these rules and regulations were revisited in CSPL's sixth report [9], which amended the wording of the Code to strengthen individual Ministerial responsibility, even after having accepted the advice of his or her Permanent Secretary.

The new Ministerial Code of Conduct has not, however, prevented scandals from following successive governments. Peter Mandelson, a former Labour party Director of Communications, was widely credited as being the man who transformed the Labour Party's fortunes in the 1990's and was Prime Minister Tony Blair's closest confidant. Mandelson was also MP for the Northern English constituency of Hartlepool and, following Labour's electoral triumph in 1997, landed a significant

⁴ Advisory Committee on Business Appointments – is an independent body that provides advice to the Prime Minister and the Foreign Secretary respectively on applications from the most senior members of the Civil Service, the Armed Forces and the Diplomatic Service who wish to take up outside appointments within two years of leaving Crown service.

Ministerial appointment as Secretary of State for Trade and Industry. Following his appointment, it transpired that Mandelson had taken a £373,000 loan from a party colleague, Geoffrey Robinson, a millionaire and longstanding Labour MP, in order to buy a house in fashionable Notting Hill, West London. The loan was arranged before the general election and it was neither registered nor declared.

Mandelson argued that the loan was not Registered because it was between friends. He claimed that he still did not think about registering it even when he discovered (and distanced himself from) his department's inquiries into Robinson's former companies, and even where the Ministerial Code of Conduct was explicit about ministers avoiding 'accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation'.

An biography of Mandelson, which was due to be published and which discussed the loan in detail, triggered political panic in the Prime Minister's circle. Finally, with questions about the failure to declare the loan, Mandelson was persuaded to resign in December 1998. The resignation of Geoffrey Robinson followed within hours. In the aftermath Mandelson was criticised for failing to declare the loan by the Parliamentary Commissioner for Standards, particularly when he arrived at the Department of Trade and Industry, although the Committee on Standards and Privileges believed that, in failing to declare the loan, Mandelson had 'acted without any dishonest intention' and exonerated him although some commentators considered that it was felt that his resignation was considered punishment enough.

In April 2003 the CSPL published its ninth report [12], which again revisited Ministers, Civil Servants and Special Advisors. This report included a number of recommendations that challenge the current system, including: publishing a new Code of Conduct that has equal weight with those of the Civil Service and Special Advisers; removing any responsibility from the Cabinet Secretary⁵ and Permanent Secretaries for giving advice to Ministers on conduct; establish a new independent office-holder called the Adviser on Ministerial Interests; appointing three investigators at the beginning of each parliamentary term to deal with investigating complaints on Ministerial conduct, with responsibility directly to the Prime Minister.

⁵ Cabinet Secretary - is the Head of the Home Civil Service.

Members of Parliament

The CSPL's first report also investigated standards of conduct among Members of Parliament, and argued that:

"It is vital for the quality of government, for the effective scrutiny of Government, and for the democratic process, that Members of Parliament should maintain the highest standards of propriety in discharging their obligation to the public which elects them. It is also essential for public confidence that they should be seen to do so. In recent years the confidence of the public in politicians has declined sharply" [4; p. 20].

As a result it made 11 main recommendations (and numerous sub-recommendations) regarding the standards of conduct of Members of Parliament including: *Codes of Conduct*, *Registers of Interest*; recommendations on lobbying for personal gain; and setting up a new independent body to oversee Parliamentary standards, the Parliamentary Commissioner.

As a result of the report, the *MP's Code of Conduct* was adopted in July 1995. This code sets out guidelines concerning acceptance of bribes, registration of interests, declaration of interests, lobbying and advocacy. These guidelines are expanded upon in Guide to the Rules relating to the Conduct of Members, established in July 1996.

The *Register of Members' Interests* was originally established in 1974 and, following the CSPL's report, is currently the responsibility of the Parliamentary Commissioner for Standards, who is assisted by the Registrar of Members' Interests. The stated purpose of the Register is:

"To provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament" [14].

MPs must register an interest in ten different categories: remunerated directorships, remunerated employment, office, profession, etc.; clients; sponsorship or financial or material support (this section is split into two categories: sources of contributions or donations to election campaigns at a General Election, worth over 25% of costs; and other financial or material support once elected (accommodation, secretaries, research assistants, etc.); UK gifts, benefits and hospitality; overseas visits; overseas benefits and gifts; Land and property; registrable shareholdings; miscellaneous (any financial interests that are not covered by the register).

MPs are required to complete a registration form within three months of being elected to the House. The form must then be sent to the Registrar, after which it is the MP's responsibility to update the register as and when the occasion arises. MPs with registrable interests are forbidden to take part in any parliamentary proceedings (speeches, actions) except voting to which the registration may be relevant, which is decided upon by the Parliamentary Commissioner.

Following the 1995 CSPL report [4] a resolution was adopted by the House of Commons prohibiting paid advocacy (lobbying). MPs cannot accept payment for speaking in the House, nor can they receive payment for asking a question in the House, tabling a Motion, introducing a Bill, tabling an Amendment to a Motion or a Bill, or urge any colleagues to do so. Any interests that are registered in the Register of Members Interests are automatically included in the ban on lobbying for reward or consideration. This 1995 resolution relates to past and present interests and does not distinguish between sources of the interest or benefit. The rule also applies to continuing (e.g. directorships), although an MP can be freed from the rule if he or she gives up the continuing benefit, and one-off benefits. It also applies to benefits to members of an MP's family. The rule does not apply to Ministers, or members of other elected bodies (i.e. regional assemblies or the EU).

Perhaps the single most important outcome of this section of the 1995 CSPL report [4], was the creation of the Parliamentary Commissioner for Standards in October 1995. The present Commissioner is Sir Philip Mawer who was appointed on March 1, 2002 for a three-year period although following the CSPL's (2002) eighth report [11] this has been changed to a five-year non-renewable term of appointment. The Commissioner is financed by the House of Commons (he is not responsible for the House of Lords) but is expected to act independently in discharging his duties and responsibilities. It is the Commissioner's responsibility to receive and, if necessary, investigate complaints of misconduct by MPs. Once an investigation is underway then the Commissioner reports back to the Select Committee on Standards and Privileges, which acts as adjudicator in the matter.

The Commissioner is responsible for maintaining a number of registers including the Register on Members' Interests, the Register of All-Party Groups, the Register of Interests of Members' secretaries and Research Assistants, the Register of Journalists' Interests and the Approved List of All-Party

Parliamentary Groups and Associate Parliamentary Groups. As well as maintaining these registers, the Commissioner is also responsible for giving advice to MPs and to the Select Committee on Standards and Privileges, which is a Parliamentary committee, regarding the Code of Conduct. The Commissioner also offers induction courses to new MPs regarding standards of conduct and ethics.

The Commissioner has handled some important and very public cases, the most infamous of which probably involved Keith Vaz, MP for Leicester East and a Junior Minister in the Blair government. In March 2001, the Standards and Privileges Committee published a report of an investigation carried out by the then-Commissioner Elizabeth Filkin, which alleged that Vaz had received illegal political donations. Vaz repeatedly used stalling tactics during the investigation in order to deter the Commissioner from carrying out the investigation successfully; Vaz refused to have official hearings taped, or even to have a short-hand note taker present. In fact the allegations could not be upheld because Vaz claimed that he no longer had any bank statements for that particular time, nor could his bank provide any. His constituency party refused the Commissioner access to their bank records, before claiming that they, too, had been lost. Despite Vaz's outright denials, some allegations were found to be indeed true, but the money involved was not of sufficient an amount for the complaint to be upheld.

One particularly serious allegation concerned a family company, Mapesbury Communications, which was alleged to have supported Vaz's parliamentary office while no income had been disclosed to Parliament. Despite the fact that the company was registered to one of Vaz's homes, and that his wife was the sole shareholder and his mother was a director, Vaz pleaded ignorance of the company's affairs. His mother steadfastly refused to hand over any accounts and therefore the allegation was not upheld due to lack of evidence.

When the report was published it declared "[the] inquiry has taken far too long. If Mr Vaz and other witnesses whom the Commissioner asked for information had answered her questions fully and promptly, the Commissioner would have been able to complete her report in a much shorter time" [15]. Unfortunately this initial report was not the end of the matter.

A further 11 allegations were investigated by the Commissioner between 2001 - 2002. Of these only 3 were upheld, 2 of which were not regarded as serious. However, Vaz was again found guilty of

deliberately misleading the investigation through not only prevarication but also through unfounded accusations against leading witnesses. As a result a second Standards and Privileges Committee report found that Vaz had failed in his public duty under the Code of Conduct “to act on all occasions in accordance with the public trust placed in [him]”. Vaz was also found to have committed a contempt of the house by deliberately obscuring the investigation process.

As a result Vaz was suspended from Parliament for one month. Elizabeth Filkin, on the other hand was not reselected to act as Commissioner following a alleged “whispering campaign” and was replaced by Sir Philip Mawer in March 2002. More than any other this case highlighted the amount of limitations that are placed upon the Commissioner, especially in regards to investigations.

In response to this and other cases, the House of Commons Internal Review Service issued a report in May 2002 entitled *Staffing at the Office for the Commissioner for Standards* [16]. The report argued that the Commissioner’s office should be expanded to include an investigative support officer to deal with any increases in cases. The Commissioner felt that removing some of the day-to-day investigative duties would free him up for more preventive and educational work. In January 2003, the Commissioner also published new procedures for dealing with complaints made against an MP.

Also in 2002 the CSPL published its eighth report [11], which included 16 specific recommendations for clarifying and strengthening the role of the Parliamentary Commissioner. These recommendations included giving the Commissioner increased powers to call witnesses and limiting discussion with the media.

The CSPL report also recommended that the Commissioner publish an annual report, the first of which appeared in July 2003 [17], detailing the investigations that had occurred in the previous twelve months. The report showed that in recent years the number of complaints received by the Commissioner has fallen from 137 (2000 - 2001), to 118 (2001 - 2002) to 90 (February 2002 - March 2003). 9 of these 90 complaints were made against the same MP and 20 were rejected at the outset for not containing specific complaints. A further 40 were then removed because they fell outside the Commissioner’s remit or simply because there was not enough supporting evidence. Others were dismissed during preliminary enquiries or are still ongoing. 13 were the subject of reports by the then Committee of Standards and Privileges [17].

It is apparent that CSPL has had a major impact again in terms of regulation, and especially with the creation of the Parliamentary Commissioner for Standards. It is also apparent, however, that flaws still remain. This situation demonstrates, however, how useful it is that the CSPL has the ability in terms of time, resources and independent authority, to revisit its original recommendations and set the agenda for improvements itself.

House of Lords

The House of Lords adopted a new *Code of Conduct* in July 2001, which came into effect on 31 March 2002. The *Code of Conduct* arose out of recommendations made in the CSPL’s (2000) seventh report [10]. The *Code of Conduct* enforces the “no paid advocacy” rule. A member must not accept any financial reward for influence in the House of Lords: this includes voting on bills; voting on motions; asking questions (whether in the House or in a committee); or promotion of any other matter.

Lords must register any interests that were acquired before 31 March 2002. Any new interests must be registered within one month of having received them. They must also openly declare any interests when speaking in the House, or when communicating with any other member of the government. This rule applies to both financial and non-financial interests. Relevant financial interests include: remunerated parliamentary consultancies; remunerated non-parliamentary consultancies; employment; remunerated services; remunerated directorships; shareholdings amounting to a controlling interest; provision by an outside body of secretarial, research or other assistance; visits within and outside of the UK that are not wholly funded by public funds. These interests extend to those of spouses, partners, children and friends. Non-financial interests include: memberships of public bodies; trusteeships of museums or similar bodies; trusteeships of pressure groups or trade unions; trusteeships of non-profit making or voluntary organisations; membership of voluntary organisations. Complaints made against Lords are not dealt with by the Parliamentary Commissioner for Standards, but are instead referred to the Sub-Committee on Lords’ Interests who report their findings to the House.

Local Government

In terms of legislation the CSPL has had a significant impact on local government and the recommendations from its third report [6] were, with one notable exception, all implemented. There was particular concern regarding local government

because by the late 1990's public confidence had been under-mined by a small number of particularly high profile cases. A police investigation into Doncaster Metropolitan Council, for example, yielded 35 prosecutions in a number of key areas: expense/subsistence claim payments; tendering and contracts; planning (land deals and planning permission/bribery & corruption); and council partnerships with large building developers. The CSPL report found that although such cases were very severe, they were not widespread, and in general it concluded that local government had good standards of conduct. The CSPL report also acknowledged that the comparative rarity of such cases had not lessened their impact upon public perception.

Another key concern highlighted by the CSPL was the tension between central and local government, which had adversely affected public opinion of each: "A suspicious attitude on the part of central government towards local government tends to damage the structure of public life and to reinforce public disenchantment with all democratic institutions" [6, p.40]. A further problem identified within the report was current standard arrangements, which lay with a range of bodies: the Audit Commission⁶, the District Audit Service⁷, and the Local Ombudsmen⁸. The CSPL report found this arrangement untenable: "a particular problem is that key responsibilities for maintaining standards are often placed outside councils, when accountability would be better served if the emphasis was on internal controls and responsibility supported by external scrutiny" [6, p. 39].

In addition to these three factors – the tension between local and central government, the proliferation of existing external arrangements, and the generally good standards of local government – the report also acknowledged that local government was already one of the most tightly regulated areas of the public sector, and thus the report favoured a

self-regulatory approach instead of compliance to central government. As a result, the 1997 CSPL report reaffirmed reports by other bodies (such as the Audit Commission) and recommended a new ethical framework for local government. In so doing, the CSPL report made numerous recommendations, which included:

- A statement of general principles of conduct for councillors;
- A model Code of Conduct for local councillors and adopted by each local authority;
- Clarification over declarations of financial and non-financial interests;
- Standards committees to be established by each local authority to deal with allegations of breaches of the Code of Conduct;
- The creation of Local Government Tribunals to act as independent arbiters on matters relating to councils' Codes and appeals from councillors arising from decisions of standards committees [6].

The Labour government, elected in 1997, broadly accepted these recommendations and published a consultation paper, entitled *Modernising Local Government: A New Ethical Framework* [18] in 1998. Overall, its recommendations mirrored those of the Committee for Standards in Public Life, and included:

- A new national model Code of Conduct for councillors, covering such areas as: community leadership, disclosure of financial and non-financial interests, dispensations to speak and/or vote in spite of a private interest, non-acceptance of positions which produce a conflict of interest, relationships with officers, use of confidential and private information, gifts and hospitality, expenses and allowances, personal dealings with the council, use of council facilities, appointments to other bodies. The model Code was to be underpinned by the principle of public service over private interest.
- The creation of Standards Committees in each local authority.
- Investigations into breach of the code to be carried out by a new national and independent body, The Standards Board for England, with the local authority Monitoring Officer acting as a filter for "trivial and technical" allegations.

The government's recommendations were restated in a second consultation document, entitled

⁶ Audit Commission – was set up by the Government in 1982 to oversee general audit issues and allocate audit work between the public auditors and private sector firms (the split was about one-third: two-thirds) for local government and the NHS. The Commission advises on best audit practices, monitors the incidence of fraud and corruption around the country and reports on current trends and technical developments.

⁷ District Audit Service – is the public auditor that provides external public audit services to the NHS and local government. It reported to the Audit Commission until 2002, after which it became an operational directorate of the Commission.

⁸ Local Government Ombudsmen – were set up in 1974 to investigate complaints from the public of injustice suffered as a consequence of maladministration by a local authority.

Local Leadership, Local Choice [19], and became the foundations of the ethical framework for local government under the *Local Government Act 2000*.

Most of the CSPL report's recommendations were therefore acted upon. One notable exception, however, was the choice to move away from Local Government Tribunals and localised investigations, towards the creation of a central investigatory and disciplinary agency, The Standards Board for England. The government's reasons for this choice were clear – following high-profile scandals such as Doncaster an independent body was seen as the most effective way to dispel public concern that corruption within local authorities was endemic. There was concern that dealing with standards on the local level may have given a public impression that authorities may well be simply looking after their own, and thus reinforced public distrust.

Although this decision may have reflected public concern, it ignored the CSPL report's findings that problems with standards and ethics in local government were not widespread. Thus it may be argued that the creation of The Standards Board for England repeated the very concerns that preceded the CSPL report: increasing suspicion between central and local government still further, and dealing with standards externally rather than internally.

In addition, concern has remained that the *Local Government Act 2000* was too concerned with quantifiable measures to deal with standards. Breaches of the code, failing to register one's interests, and decal-ring gifts and hospitality can all easily be measured, but this does not necessarily reflect a truly ethical environment. As Skelcher and Snape [20, p.1] argued, the ethical agenda can be interpreted either narrowly conforming to establishing standards committees and codes of conduct, or more widely, which "sees the new ethical agenda as being about the overall approach to the authority's governance and the way this influences behaviour. It emphasises risk assessment and prevention rather than cure. The wide interpretation sees a relationship between standards of conduct and transparency and openness in decision making".

Ultimately, then, the *Local Government Act 2000* has been considered to be a major step towards stronger models of compliance, but was certainly removed from the CSPL's original report in important respects. As Stevenson (2002: 154) concludes: "one does have to question whether this is the system that Nolan envisaged and whether it really will return responsibility for standards back to authorities themselves. I have to say that for me the words 'sledgehammer' and 'nut' do still spring to mind".

Non-Departmental Public Bodies

There are a great number of unelected public bodies within the UK that are responsible for spending public money. The government defines these bodies as: "Not part of a government department, but (which) carries out its function to a greater or lesser extent at arm's length from central government" [21, p.4]. These public bodies are sponsored by government departments and are accountable to Ministers. Ministers are responsible for making appointments to public bodies, and each department is responsible for the funding of each public body. The first report of the CSPL [4] looked at these public bodies and established that by 1994 they were responsible for a combined budget of £15.08 billion [4, p. 67].

There are four types of public body: nationalised industries, public corporations, NHS bodies, and Non-Departmental Public Bodies. This subset of NDPBs is then arranged into four separate categories, denoting funding arrangements and activities:

1. Executive NDPBs – established in statute to carry out administrative, commercial or regulatory activities, with their own budgets and employ their own staff;
2. Advisory NDPBs – independent bodies offering advice to Ministers, usually staffed by the sponsoring department and usually without their own budgets;
3. Tribunal NDPBs – for specialised fields of law; usually staffed by the sponsoring department and usually without their own budgets;
4. Boards of Visitors – for monitoring the prison system.

According to the government's latest official publication, *Public Bodies 2003* [22], as of 31 March 2003 there were 849 public bodies sponsored by the government. This included 3 nationalised industries, 12 public corporations, 23 NHS bodies and 811 NDPBs: 206 Executive NDPBs; 422 Advisory NDPBs; 33 Tribunal NDPBs; and 150 Boards of Visitors. There are approximately 22 000 members of public bodies at present, the majority of whom were formally appointed by government Ministers.

The first CSPL report [4] made 22 recommendations regarding NDPBs, and many of these bodies have begun to adopt them – Codes of Conduct, Registers of Interest, and so on. However, there are serious concerns over the unevenness with which these regulations have been adopted, as well as the effectiveness of monitoring procedures.

One of the most significant of the CSPL's recommendations was the creation of an oversight

and scrutiny body for NDPBs, the Office of Commissioner for Public Appointments (OCPA) which was formally established on 23 November 1995. OCPA is independent of government, and is responsible for regulating, monitoring and reporting appointments of Ministers to public bodies. Regulation is conducted through a Code of Practice published in July 2001, which must be followed by each Minister. The monitoring process includes independent scrutiny during selection, annual audits and investigation of complaints.

The Commissioner publishes an annual report, which includes full details of the monitoring process. In 2001 - 2002 there were 38 complaints to OCPA (an increase of 12 from 2000 - 2001) and 83 complaints to government departments (an increase of 25 from 2000 - 2001). Of these complaints only 5 were upheld from 2001 - 2002 [23].

Last year NDPB's were the subject of a Parliamentary investigation by the Public Administration Select Committee, who published their report, *Government by Appointment: Opening up the Patronage State*, in June 2003 [24]. The report looked at the way that appointments are made to a variety of public bodies and made numerous criticisms of current arrangements.

Interestingly, the report's first finding identified a far greater range of public bodies than those given as the official figures in *Public Bodies 2003*:

- 300 Executive NDPBs and over 530 advisory NDPBs in central and devolved government;
- More than 5,300 local NDPBs;
- 2,300 local partnership bodies.

Furthermore, the report found that only 1,163 out of 1,375 central government bodies (as listed in *Public Bodies 2003*) are regulated by OCPA. In other words, 212 bodies (15%) are not independently regulated. In addition many public bodies, (for example, the Civil Service Commissioners, the Electoral Commission, the Financial Services Authority, the Parades Commission in Northern Ireland and Partnerships UK) are not classified as NDPBs and are therefore not subject to any independent regulation, which raises significant questions of accountability. Using the example of a NDPB named Partnerships UK, which is an advisory body to Her Majesty's Treasury, the report writes:

“PUK, which plays a significant role in the processes of the Private Finance Initiative (PFI), began life as a non-regulated task force, briefly became an NDPB, subject to OCPA, and was then privatised as a merchant bank (with the

government retaining a 49 per cent share). As a 'private body', PUK is not reported in Public Bodies and is outside the sphere of OCPA and possibly other forms of public accountability, even though its activities are very influential within the public sphere and raise conflict of interest issues” [24, p. 15].

The 1995 CSPL report also recommended that NDPBs should keep a register of member's interests. The select committee report found, however, that many public bodies do not keep a register, and that many of those that do create a register do not make it easily available to the public. The principle of the register is itself open to criticism as it only requires registration of those interests that are perceived conflicts of interests *by the person registering them* rather than a neutral observer. The report highlighted numerous instances where this requirement has led to some glaring potential difficulties. One member of the Medical Research Council (MRC), for example, did not declare that he was also a Director of BUPA, the UK's largest private health provider. The chair of the MRC, who oversaw the publication of its register, was himself a member of the Committee for Standards in Public Life and still did not draw attention to the other member's omission. In addition, in his own declaration of interests for the Committee for Standards in Public Life, the same person did not declare his Directorship of Bermuda Asset Management, an offshore company that is not registered with Companies House (which all companies within the UK are supposed to be registered with).

The reason given for the above omissions was that the board of each body knew about the interests, and therefore they did not need further amplification. This official position, however, is arguably a far cry from effective public accountability. Although these examples do not necessarily imply anything as serious as corruption is taking place in the UK, they do indicate that there are currently problems with transparency, especially if declarations of interest are left to the judgment of those making them.

Finally the Parliamentary report demonstrated that appointments to many apparently independent bodies, are actually made directly by the Prime Minister – or at least made by the Queen on the Prime Minister's recommendations – 106 bodies in all. In addition, the Prime Minister is expected to be consulted for appointments to a further 70 public bodies. Not only does this inevitably call the independence of such bodies into question, it also raises issues of accountability, as the Prime

Minister clearly does not personally scrutinize the performance of each of his appointments.

As a result the report makes 36 recommendations to update the current situation, including:

- All public bodies, whether Executive or advisory, statutory 'other' or 'private', 'ad-hoc' or 'ongoing', within the remit of central government, should be placed on the public record in Public Bodies and departmental websites, with information on their roles, accountability and appointment arrangements [24, p. 61].
- The Commissioner for Public Appointments should report to Parliament the list of public bodies that she considers should come within her remit; and that there should be an opportunity for Parliamentary scrutiny and approval of the list, possibly through a select committee [24, p. 61].
- The Commissioner for Public Appointments should be given formal whistle-blowing powers to report material non-compliance with the Code of Practice by any department, minister or official. It is for discussion whether the Commissioner should report such breaches to the First Civil Service Commissioner or to another body, such as a Parliamentary committee [24, p.62].
- The Government should organise and publicise a pilot scheme for public appointments involving an element of random selection by lot, with the final selection still made on the basis of merit [24, p.63].
- The Government, in the interest of independent, professional and transparent processes of public appointment, should consult on the establishment of a single Public Appointments Commission to take over public appointments to NDPB, public corporations and other public bodies from government departments [24, p.64].

In this case, then, the CSPL was significant in establishing the basic mechanisms with which to scrutinize NDPBs, but these mechanisms remain seriously flawed. It has taken the work of a Parliamentary committee to highlight some of these problems and make new recommendations, which will be extremely useful for the CSPL's next inquiry into public bodies.

Electoral reform

As noted earlier, electoral reform was the subject of Tony Blair's expansion of the terms of reference for the CSPL, who have had another demonstrable

impact in this area: recommendations from its fifth report [8] led to the *Political Parties, Elections and Referendums Act 2000* (PPERA) and also the creation of the Electoral Commission, which was established in November 2000. The Electoral Commission is independent of the executive, and any political party, and is accountable directly to Parliament.

The CSPL report came arose out of controversies surrounding the funding for both the main parties – Conservative and Labour – which were perceived as creating conflicts of interest. This issue came to the fore early in Tony Blair's first term of office when the newly elected Labour government proposed legislation banning tobacco advertising, which had a potentially damaging impact on a number of sports events that relied on the industry for sponsorship. Using an EU directive, the Labour government negotiated an extended deadline of the ban for Formula 1 in which the tobacco industry acts as the single biggest sponsor of motor racing teams.

Shortly after the deal was brokered, however, it became public knowledge that Bernie Ecclestone, who controls Formula 1, had donated £1 million to the Labour Party before the 1997 general election. Ecclestone's donation was subsequently perceived as a blatant (and successful) attempt to create a legislative loophole that would otherwise have fatally affected his business. As a result, the Labour Party returned Ecclestone's donation and the Government subsequently introduced the *Tobacco Advertising and Promotion Act, 2002*, banning such sponsorship but allowing for delays to the ban in certain circumstances. The Act came into force in February 2003.

As a result of the furore the CSPL ran an inquiry, which led to the creation of both the PERA and the Electoral Commission. Most rules on party funding came into effect on February 16th, 2001.

Under the PERA donations of more than £200 made to a political party or candidate can only be accepted from a 'permissible donor'. Permissible donors include any UK individual registered in an electoral register; a registered party; a company; a trade union; a building society; a limited liability partnership; a friendly, industrial or provident society; an unincorporated association. There is no ceiling on the amount that can be donated, although all political parties must submit a quarterly donation report to the Electoral Commission, listing all donations of £5000 or more accepted by party headquarters. Parties must also report any donations made to branches of £1000 or more. During a general election political parties must provide weekly reports of donations worth

£5000. Donors themselves must register with the commission if they donate £5000 or more to an organisation or more than £1000 to an individual within a calendar year.

The PPERA effectively bans overseas donations whereas anonymous donations, which used to be acceptable, must now be returned or placed in a central fund. It is a criminal offence to accept impermissible donations.

Problems continue to arise, however, in the matter of party funding. Last year it emerged that in July 2001 the Prime Minister had written a personal letter to Adrian Nastase, the Prime Minister of Romania, on behalf of Lakshmi Mittal, a tycoon with an estimated fortune of £2.2 billion. Mr Mittal was attempting to purchase Sidex, Romania's national steelworks, at a cost of £37 million. Mr Blair attempted to justify his intervention by stating that the purchase was good for the UK's industry. Unfortunately Mr Mittal's companies are not based in the UK and actually compete with the British steel industry. In addition, the company that bought Sidex is registered in the Dutch Antilles and subsequently is exempt from paying taxes to the UK. Most importantly one month before Tony Blair composed his letter, Mr Mittal had donated £125, 000 to the Labour Party. The furore led one national newspaper to claim that "One of the Prime Minister's own psychological flaws is an apparent inability to believe that he is capable of acting corruptly" [25].

In 2003, the Electoral Commission engaged in a review of the PPERA to assess the relative merits and demerits of purely state funding for political parties, although it may be noted that this particular idea was explicitly rejected in the CSPL's report on electoral reform. Problems within the Labour party have continued, however, with party membership and its associated income declining (earning an estimated £3.2 million in 2002), and trade union funding being the subject of cuts (but still bringing in over £6 million a year). As the party also carries a significant multi-million pound debt, then the annual £16 million from donors is not just attractive but is invaluable and increasingly ruthlessly sought, if the experiences of one potential donor are to be believed.

Measuring Impact?

Each of the CSPL's reports has had a noticeable impact upon public standards and ethics in the UK in terms of both legislation and the creation of new standards bodies: the first report [4] led to the creation of the Parliamentary Commissioner for Standards, and the Office of Commissioner for Public Appointments; the third report [6] led to the

ethical framework the *Local Government Act 2000*, and also the creation of The Standards Board for England; the fifth [8] report led to the *Political Parties, Elections and Referendums Act 2000* and the creation of the Electoral Commission. As we have seen, recommendations by the CSPL have also led to Codes of Conduct being established and entrenched in government, Parliament, the civil service, public bodies and local government. In addition, the CSPL has provided a forum for other bodies to debate ethics and standards. Its latest (tenth) inquiry, for example, attracted approximately 150 pieces of written evidence to discuss a review of NHS bodies and local government. The very fact that the CSPL can review previous recommendations and subsequent action also allows it to continue to act as a major agenda-setting organisation for standards and ethics in the UK.

What is much more difficult to ascertain is whether or not the CSPL has had an impact on public perception of public standards, and if so whether this has been positive or negative.

Evidence suggests that politicians are still not trusted by the public. An annual poll conducted by MORI on public trust and its opinion of various professions showed that, apart from journalists, politicians and members of the government are consistently regarded as being the least trustworthy of all professions.

The 2003 poll shows that politicians score the lowest in the professions most likely to tell the truth at 18% while government Ministers are marginally more trusted at 20% (doctors score the highest at 91%). Conversely, the poll shows that 75% of the public expects politicians *not* to tell truth, with government Ministers scoring a similar rating of 73%. Politicians and government Ministers also score the highest in levels of general dissatisfaction: 29% of people asked were fairly dissatisfied, and a further 22% were very dissatisfied, with the performance of politicians in general. 28% were fairly dissatisfied, and 23% very dissatisfied, with the performance of Ministers in particular [26]. Similarly a recent ICM poll, conducted for the BBC in 2002, indicated that the public perception of political party funding remained deeply suspicious: 81% agrees "the present system of paying for political parties makes people suspicious of politics and politicians" [27].

One potentially important mitigating factor is that these figures do not represent a recent trend. In 1983 the same MORI poll showed that 18% of the population expected politicians to tell the truth with an even lower 16% rating for members of the

government. The same year saw 75% expect politicians *not* to tell the truth, and 74% display the same doubts about the government. It is important to appreciate, therefore, that public distrust is not a recent phenomenon but at the same time it indicates that for all its undoubted achievements, the CSPL has not been able to alter public perception.

In September 2004, the CSPL published its own research entitled, *Survey of public attitudes towards conduct in public life*. The survey showed that while people are more inclined to trust their own local MP, 67% of respondents still felt that MPs in general could not be trusted, and 70% felt the same about government Ministers [28; p.5]. Perhaps more interestingly the survey noted that the Labour government is now facing its own version of sleaze, the catch-all expression that accounted for such a loss in public trust of John Major's Conservative government in the 1990's. The survey argues:

"The survey took place during a period when the political landscape was dominated by issues associated with the war against Iraq, in particular the criticisms levelled at the Government's dossier on Iraqi weapons of mass destruction, the death of Dr Kelly and the ensuing inquiry by Lord Hutton <...>. More generally, the influences that respondents cited are suggestive of a shift in emphasis from *sleaze* to *spin* as the key public concern in relation to standards in public life" [28, p. 3].

The CSPL suggests that this is a result of media attention on key allegations and supposed scandals, which gives respondents "exaggeratedly negative perceptions" on the conduct of MPs and the government.

More generally, 30% of respondents felt that standards of public conduct had got worse over the last few years, compared with 28% who felt standards had improved and 38% who felt that they had remained the same [28; p.14]. 56% of respondents did feel, however, that the CSPL's measure will improve standards a little and 17% felt that they would improve standards a lot [28, p.14].

Conclusion

These surveys suggest that the impact of the Committee for Standards in Public Life has been a mixed bag. It has undoubtedly had an important impact on the institutionalisation of standards of conduct in public service within the UK. Over 80% of its total recommendations have been accepted and implemented [30]. In addition, the seven principles of public life that the CSPL identified in its

first report [4], have been subsequently been accepted by international bodies such as the OECD [30].

The CSPL's impact on public perception has been less positive, however, as the CSPL itself accepts: "How far public confidence in the honesty of public office-holders, and of national politicians in particular, can be increased, is open to question – the absence of trust in politicians is so widespread as to make a disparity between public expectations and perceptions seem inevitable" [28, p.15].

Clearly some of the areas in which the CSPL has investigated (for example NDPBs) still have a long way to go in terms of scrutiny and accountability, but perhaps the more interesting question is where the CSPL goes from here? Other ethics bodies in the UK are now advocating a less compliance-based view of standards and are moving towards ethical and corporate governance in public service. The Audit Commission [29, p.3], for example, have identified a number of key areas, both 'hard' and 'soft' that contribute to this ethical wider vision, including: leadership; a culture of openness, honesty, and accountability; appropriate support systems (for example, risk management, financial management, performance management and other internal controls); and, focus on the needs of external stakeholders, such as actual service users. It will be interesting to see whether or not the CSPL advocate this broader approach, and if so what recommendations they will make.

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Michael James Macaulay

Viešojo gyvenimo standartų komiteto įtakos vertinimas

Reziumė

Straipsnyje nagrinėjama Jungtinės Karalystės Viešojo gyvenimo standartų komiteto veiklos įtaka šešiose pagrindinėse politikos ir viešosios tarnybos srityse dirbančiųjų tarnautojų (ministrų ir ministerijų tarnautojų, Parlamento narių, Lordų rūmų narių, vietos savivaldos, nevyriausybinių agentūrų ir rinkiminių komisijų tarnautojų) elgsenai. Parodyta, kad šito komiteto dauguma rekomendacijų padėjo rengti atitinkamus įstatymus bei sudarė prielaidas susikurti daugeliui kitų standartų ir etikos agentūrų, tačiau jo įtaka įtvirtinant valstybės tarnautojų etiško elgesio normas iki šiol vis dar yra mažesnė negu buvo tikėtasi.