

Report to	Standards committee	Item 8
	27 September 2013	
Report of	Head of law and governance	
Subject	Best practice in promoting good behaviour in public life	

Purpose

This report highlights the matters outlined in the Committee of Standards in Public Life (CSPL) report 'Standards Matter - a review of best practice in promoting good behaviour in public life,' which was published in January 2013.

Recommendation

This report is for discussion and information only.

Financial implications

None

Contact officers

Philip Hyde

01603 212440

Background documents

None

Report

1. The report 'Standards Matter: A Review of Best Practice in Promoting Good Behaviour in Public Life (Cm. 8519)' argues that much of the basic infrastructure to improve standards in public life is now in place. The report aimed to analyse what has been shown to work best in promoting high standards and to take stock of current areas of risk. The project was launched in May 2012, and the final report was published in January 2013.
2. Statements of key principles and codes of conduct have been adopted by most public bodies, new regulators have been created or had their existing remits clarified, and awareness of principles such as integrity, accountability and openness has increased considerably.
3. Standards of behaviour in many areas of public life have improved, but the CSPL finds it disturbing that concerns continue to be raised about the integrity of so many of the country's key institutions, or those within them.
4. Evidence from the past few years suggests that there is still much to do before the high standards in public life to which we all aspire are fully internalised by the cultures of all our public institutions.
5. The report concludes that the need is not for more principles, codes or regulators, but rather for the existing arrangements to be more consistently and actively implemented.
6. The executive summary and conclusions are annexed in this report. The full report can be read at www.public-standards.gov.uk.

Committee on Standards in Public Life

January 2013

Dear Prime Minister

I am pleased to present the report of the Committee on Standards in Public Life's review of best practice in promoting good behaviour in public life.

The Committee felt that the time was right to undertake a review of the key lessons that have been learnt since the Nolan Committee's first report was published in 1995 about how to improve ethical standards in public life – to stand back and reflect on what has been achieved and what still needs to be done.

The report argues that much of the basic infrastructure to improve standards is now in place. Statements of key principles and codes of conduct have been adopted by most public bodies, new regulators have been created or had their existing remits clarified, and awareness of principles such as integrity, accountability and openness has increased considerably.

We are in no doubt that as a result standards of behaviour in many areas of public life have improved.

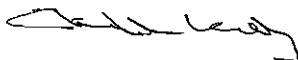
But it is disturbing that concerns continue to be raised about the integrity of so many of our key institutions or those within them; and the evidence of the last few years and months suggests that there is still much to do before the high standards in public life to which we all aspire are fully internalised in the cultures of all our public institutions.

The report concludes that the need now is not for more principles, codes or regulators but rather for the existing arrangements to be more consistently and actively implemented. The promotion of good behaviour can never be just about ticking boxes. It requires expected standards to be embedded throughout an organisation and its processes, with everyone taking ownership of high standards and regular monitoring of whether they are being met.

We have set out four main conclusions and a number of best practice points which we hope will be of assistance to those who find themselves having to grapple with these issues.

The report also identifies a number of existing and emerging risks which we believe need to be addressed more energetically if high standards in public life are to be maintained consistently.

High standards are a public good. They improve predictability and promote better outcomes for society, increasing public confidence and the functioning of the economy. I commend the report to you.



Christopher Kelly

Chair, Committee on Standards in Public Life

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

Executive summary

Introduction

1. Standards of behaviour matter. They are particularly important where public money is being spent on public services or public functions. Citizens have a right to expect that holders of public office who take decisions which affect their lives should do so with impartiality, should be truthful about what they are doing and should use public money wisely. Society can expect better outcomes when decisions are made fairly and on merit and not influenced by personal or private interests. Organisations in every sector benefit from greater legitimacy when the public has confidence in their integrity. The UK economy benefits nationally and internationally from that confidence.
2. It is therefore disturbing that questions continue to be raised about the integrity of a number of our key institutions. The controversy which followed revelations about MPs' expenses in 2009 still casts a long shadow over Parliament. In the last five years there have also been issues relating to the expenses of members of the House of Lords, political donations for political access, inappropriate behaviour by local councillors, electoral fraud, concerns over lobbying, the "revolving door" between the civil service and private sector and the apparent failure of procedures for escalating concerns in a number of public bodies. In the last few months alone, issues have been raised about unethical (or in some cases possibly criminal) behaviour on the part of the police, the historical behaviour of the armed forces, police and Security Service in Northern Ireland, high profile problems in hospitals and care homes, the BBC, national journalists and banks.
3. Some of these institutions previously attracted high levels of public trust or professional respect, which has made the impact of recent events particularly marked. The fact that some of the inappropriate behaviour may also have been dishonestly covered up has been especially shocking to members of the public, many of whom rate truthfulness as one of the most important ethical standards. Even where there has been no apparent dishonesty, the leadership of some organisations has been seen to have failed to inculcate a culture of high standards in tune with public expectations.
4. Many of these issues have been or are being investigated elsewhere. Some do not come within our terms of reference. Journalists are not public office-holders, important though their impact is on many aspects of public life. The behaviour of the banks in contributing to the financial crisis or participating in the alleged manipulation of LIBOR occurred before the Government took significant public stakes in some institutions.
5. But public life does not take place in a vacuum. Public office-holders reflect the populations from which they are elected or recruited. Their behaviour in turn provides a model for those populations and is necessarily affected by the wider context in which it occurs. Moreover, the factors which influence behaviour in the public sector are likely to be very similar to those which drive high or low standards in other sectors.
6. So it is important to understand as much as we can about the factors that promote high standards. That has been the main purpose of our review – to take stock of what has been learnt over the two decades since this Committee was established.
7. This report sets out our key conclusions. We do not pretend to have all the answers. But we have drawn together the evidence from a growing body of experience and an expanding field of research. In doing so we have attempted to think through some of the theoretical issues around ethical standards and to make practical suggestions which we hope will be of assistance to those who find themselves having to grapple with these difficult issues on a daily basis. We have also identified a number of existing and emerging risks which we believe need to be addressed more energetically before we can be confident that high standards in UK public life are being consistently achieved.

8. Our key message is this. Much of the basic infrastructure to support high standards is now in place. Most public services and public office-holders have adopted statements of high level principles and codes of practice and are subject to some form of external scrutiny. But it is self-evident, not least from recent events, that these mechanisms by themselves are not enough. Many of those whose integrity has been called into question in recent months and years seem to have behaved inappropriately not because they were unaware of what was expected but because they did not find it expedient. High standards of behaviour need to be understood as a matter of personal responsibility, embedded in organisational processes and actively and consistently demonstrated, especially by those in leadership positions. This report presents some ideas about how this may be achieved.
9. We have been conscious throughout our review that a number of important issues of relevance to our work have, at the same time, been under examination elsewhere. We therefore sought to avoid overlap with the work of Lord Justice Leveson on the press and Robert Francis QC on Mid Staffordshire NHS Foundation Trust, for example. But when Lord Justice Leveson published his report we were not surprised to find that, where our areas of interest coincided, many of his findings resonated with our own – for example, in relation to the importance of standards regulators being both demonstrably independent and armed with robust sanctions.¹ We expect the same to be true of the Francis report when it is published in due course.²

Have standards of conduct in public life improved since this Committee first reported in 1995?

10. The infrastructure to support high standards in the UK has developed considerably since 1995 when this Committee published its first report. Awareness of the importance of principles like integrity and accountability has increased. Codes of conduct have been promulgated in most, if not all, public organisations and by many professional bodies. New regulators have been created and others have had their remits clarified. Transparency has increased markedly as a result of the development of electronic communications and the Freedom of Information Act, aided greatly by the media who, despite their shortcomings, have a key role in making transparency meaningful to the general public.
11. We have little doubt that standards of behaviour in many areas of public life have improved in consequence.
12. But there is still much to do. The evidence gives no grounds for complacency.
 - **Inappropriate behaviour continues to be revealed** on a regular basis – not only the most recent issues involving the police, the BBC and other institutions, but also instances of more long-standing problems.
 - Some of these incidents imply that **those in leadership positions in the organisations concerned have yet to internalise the principles of public life fully** or, that if they have, they are unwilling to demonstrate them in their own behaviour when it is inconvenient or not expedient to do so.
 - Much of this inappropriate behaviour involves **deliberate attempts to get around codes of practice and conduct** rather than a failure to understand what is expected. The implication is that the principles of conduct in public life are some way from being universally accepted, whatever lip service may be paid to them. Individually and collectively people have a great capacity to find ways of acting within the letter but not the spirit of acceptable behaviour and to rationalise their reasons for so doing.
 - **New situations continually arise which raise new standards issues**, including, at present, the development of new models of public service delivery.

1 Rt Hon Lord Justice Leveson, *An inquiry into the culture, practices and ethics of the press*, November 2012. This report is referred to throughout as the Leveson Inquiry.

2 Robert Francis QC previously undertook an initial inquiry into Mid Staffordshire NHS Foundation Trust, under the NHS Act 2006, published as *Independent inquiry into care provided by Mid Staffordshire NHS Foundation Trust January 2005 – March 2009*, HC 375, February 2010. His second investigation, a Public Inquiry under the Inquiries Act 2005, is due to be published in early 2013.

- **Responses to standards issues often come too late** and only in response to public scandals which by then have done a lot of damage.
 - Such improvements as have occurred in standards of behaviour over the past two decades have not been accompanied by an improvement in public confidence. Instead there has been a **significant and consistent decline in levels of public trust and confidence** in the integrity of public office-holders and institutions.
13. Public office will always involve the distribution of resources among competing claims and politics will inevitably always be a competition for power. As a result, the opportunities for abuse of position are considerable. If the UK is to reap the benefits of maintaining high ethical standards in public life we need to remain vigilant about preserving them.

What do we now know about what works best in promoting high ethical standards in organisations providing public services?

The basic framework

14. The first conclusion of this review is that the basic elements of a strong ethical framework remain much as identified by this Committee under the Chairmanship of Lord Nolan in its first report.³ Most organisations delivering public services are aware of these requirements and attempt to implement them, with varying degrees of enthusiasm and success. They are discussed in more detail in **Chapter 4**. The basic elements are as follows.
- A set of broadly expressed **principles**. These should be aspirational, rooted in the core purposes and values of an organisation or profession and easy to communicate and understand. The seven principles of public life fulfil that purpose. They have now been widely disseminated and in some cases adapted. We believe they remain broadly relevant. But we think it appropriate to revise some of the brief descriptions usually associated with each principle to bring them up to date and provide greater clarity, particularly in relation to honesty. We have set out new descriptions in **Chapter 3**.
 - **Codes of conduct**. Experience suggests that there can quite reasonably be different interpretations of what concepts like integrity mean when applied to particular sets of circumstances. So public office-holders deserve some help. This is best provided in the form of a code which elaborates what the principles imply in the specific circumstances of the particular organisation. Such codes ensure that everyone in the organisation knows what is expected of them. So do those holding them to account. Codes now exist in most if not all public sector organisations. They need to be sufficiently detailed to provide helpful guidance. But if they become too elaborate people can lose sight of the principles on which they are based, and fail to exercise their judgement or take responsibility for their decisions (**Chapter 4**).
 - **Independent external scrutiny**. Prime responsibility for upholding high standards should always rest first with the individual and then with the organisation. However, history shows self-regulation often to be ineffective without some form of external involvement. It is essential that someone is able to hold up a mirror to those in public office to remind them of the standards to which they should aspire. An important part of this scrutiny can come from the media. But press scrutiny can be superficial, incomplete or undertaken in the service of particular interests or agendas. It is inevitably often retrospective and better at revealing problems than making careful judgements or pointing to a constructive way forward. Self-regulation needs therefore to be reinforced in other ways – by peer review or by a specifically appointed regulator. Such regulators need to be established with care and remain forward-looking, focused on their core purpose and not over-burdensome. They also need to be given adequate powers, independence and recognition for their efforts; and there needs to be clarity and widespread agreement about their role, functions and resources if they are to avoid being drawn into political controversy (**Chapter 5**).

³ Committee on Standards in Public Life, *Members of Parliament, ministers, civil servants and quangos* (First Report), May 1995, Cm 2850.

Active governance

15. Our second key conclusion is that rather than introducing new principles, more codes or additional regulators, the current requirement is instead to ensure that ethical standards are addressed actively at an organisational level across the public sector, and indeed more widely. In addition to the requirements set out in the previous paragraph, two other elements are needed.
 - **Embedding of ethical principles** in the policies, practices and culture of each organisation, reinforced by peer pressure. High standards cultures constantly convey the message that behaving ethically is essential and failing to live up to principles is unacceptable. Banking is not the only sector with examples of organisations with superficially commendable codes of conduct which bear little relation to the behaviour actually encouraged and rewarded by organisational culture. Codes need to be supported by appropriate induction and training, reflected in appraisal and reinforced by rewards and sanctions. A striking finding from our focus groups is the importance which people attach to the imposition of timely and effective sanctions for poor behaviour and their belief that this seldom occurs.⁴
 - **Robust, effective leadership.** It is the leaders of any organisation who are best placed to set an appropriate tone and promote the right culture. Elected representatives, board members and managers at all levels should exemplify the high standards of behaviour they require of others. Organisations need to make sure they grow or recruit leaders with the necessary values. One focus group participant put it thus:

*"Codes of conduct are necessary like policies and procedures... but to carry them out you need effective motivational leadership."*⁵
16. This conclusion should not detract from the principle that the maintenance of high standards is primarily the personal responsibility of individuals. However, individuals need to be supported by the culture of the organisations of which they are a part. Ethical standards should be deeply embedded in governance and other organisational processes so that they become an integral part of "the way things are done around here" and so that individual behaviour which does not meet those standards is challenged.
17. Many public service organisations believe they do this already. We think there is scope for most to do it more systematically. We make some suggestions about how they might do so in **Chapter 4**. All organisations should monitor and regularly review how well they measure up to best practice in ethical behaviour. They should ensure that standards issues feature regularly on board agendas; and they should make certain that standards risks feature appropriately on their risk registers, with mitigating strategies in place and actively monitored. Simply ticking boxes is unlikely to be enough, unless organisations and their leaders also genuinely take responsibility for their own standards and maintain an appropriate degree of vigilance to ensure they are upheld. In our view permanent secretaries and chief executives of all organisations delivering public services should take personal responsibility for ethical standards in their organisations and certify annually in their annual report or equivalent document that they have satisfied themselves about the adequacy of their organisation's arrangements for safeguarding high standards.
18. The risks of failure to anticipate problems in advance are obvious. Every unresolved issue takes its toll on public confidence. Measures put in place in the face of a media frenzy risk being disproportionate.⁶ It is preferable for individuals and organisations to take responsibility for acting before being forced to do so.

⁴ TNS BMRB, *Qualitative research on public perceptions of ethical standards in public life*, report to the Committee, 2012.

⁵ Ibid.

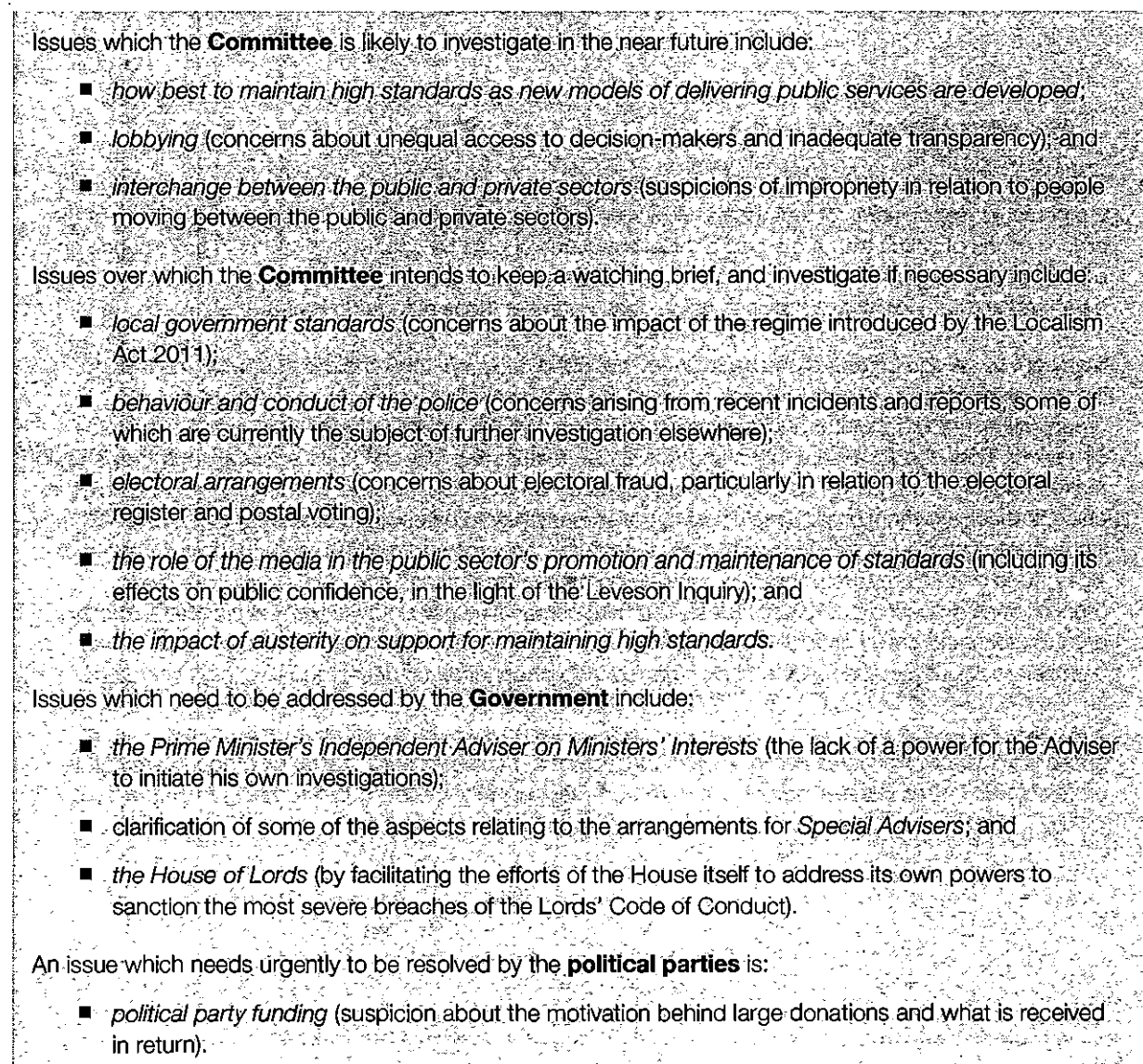
⁶ Lord Justice Leveson made this point in paragraph 99 of the executive summary of the Leveson Inquiry.

What needs to be done by whom to continue to embed high standards in public life?

Current and emerging ethical risks

19. Our third key conclusion is that a significant number of important standards issues currently require attention (figure 1). We examine these in detail in **Chapter 7**.
20. Some of these issues are longstanding. Others reflect the fact that changing circumstances continually create new risks. In particular, a combination of political philosophy and economic pressure is currently driving the development of a number of new ways of delivering public services – clinical commissioning groups, elected mayors and police and crime commissioners, academy schools, and private, voluntary sector, mutual or citizen-led provision in areas ranging from prisons to hospitals, social housing and libraries. Often these new models are intended to deliver greater efficiency, effectiveness or responsiveness. Many of these approaches involve people either new to public service, or faced with different demands and challenges, often with reduced resources. Careful thought needs to be given in each case as to how best to maintain high standards of ethical behaviour under the new circumstances they present.

Figure 1: Key standards issues requiring attention



Public confidence

21. Our fourth key conclusion is that low and declining levels of confidence in the integrity of public institutions should remain a matter of concern.
22. Confidence in public institutions is affected by many factors other than perceived or actual standards of behaviour. It would be wrong to draw the conclusion that there is nothing that can be done to improve it, however. Visibly high standards of behaviour by public office-holders may not be a sufficient condition for high levels of public trust. But they are a necessary one. There can be little doubt that current levels of trust would be considerably higher had the problems of the last decade not occurred. Confidence in Westminster and in the nation's public life took a particular knock over revelations about MPs' expenses. Party funding is another source of suspicion. Research for our last report showed that more than a third of respondents thought that individuals or organisations making large donations to political parties "very often" received special favours in return. Almost a further half thought they did "sometimes".⁷ The often partisan approach of the political parties to many standards issues feeds public cynicism. These are self-inflicted wounds.

Conclusions and best practice points

23. Our conclusions include some practical steps which organisations can take to help ensure that they establish and maintain high standards. Our key message is that unless individuals and organisations genuinely take responsibility for their own standards, remaining vigilant to ensure they are upheld, they risk failing to meet the standards to which they aspire.

Conclusion 1

The basic building blocks for promoting high standards remain much as identified by the original Nolan Committee – a set of broadly expressed values which everyone understands, codes of practice elaborating what the principles mean in the particular circumstances of an organisation, effective internal processes to embed a culture of high standards, leadership by example and proportionate, risk-based external scrutiny.

- Many organisations delivering public services, including those voluntary, private sector, mutual or social enterprise organisations taking on contracts from the public sector, already regularly assess how well they measure up to best practice in ethical governance. All organisations need actively to review their current practices as a matter of routine, making sure that they consider all those factors affecting individual behaviour, including recruitment processes, appraisal and reward structures, leadership and contemporaneous prompts to good behaviour alongside formal codes and sanctions for poor behaviour.

Conclusion 2

The need now is for ethical standards issues to be addressed actively at organisational level. High standards do not occur automatically. Nor should they be taken for granted. High standards are everyone's personal responsibility. But personal behaviour is shaped by organisational culture. High standards need to be driven actively by leadership and example.

- Ethical issues should feature regularly on the agendas of the boards of public bodies and, where appropriate, on risk registers. All such boards should consider whether ethical risks have been adequately addressed and actively monitor standards of behaviour throughout their organisations, either themselves, or through their audit and risk committees.
- Permanent secretaries and chief executives of all organisations delivering public services should take personal responsibility for ethical standards in their organisations and certify annually in their annual report or equivalent document that they have satisfied themselves about the adequacy of their organisation's arrangements for safeguarding high standards.

⁷ Committee on Standards in Public Life, *Political party finance: Ending the big donor culture* (Thirteenth Report), Cm 8208, November 2011, p.22.

Conclusion 3

New ethical risks are being created by the development of new models of service delivery. There is a growing area of ambiguity occupied by people contracted to deliver public services who may not be public office-holders. We strongly believe that the ethical standards captured by the seven principles should also apply to such people.

- In all cases where new methods of delivering public services are being created, commissioners and providers should give careful thought to the mechanisms necessary to maintain expected high standards of behaviour and promote the seven principles of public life.
- Public servants designing and commissioning services should, in a consistent and proportionate way, address ethical issues throughout the procurement process. Contractors and others should acknowledge the particular responsibilities they bear when delivering public services, paid for by public money, to individuals who may not have the choice of going elsewhere.
- Where powers to regulate standards are devolved to promote local responsibility and leadership, care should always be taken to ensure that there is independent scrutiny, that the results of such scrutiny are made publicly available and that those who have responsibility for imposing sanctions have adequate legal or other powers to do so.

Conclusion 4

Low and declining levels of confidence in the integrity of public institutions remain a matter of concern. While trust is a complex phenomenon, there is scope for trying to increase public confidence in public office-holders and public institutions by addressing the outstanding standards issues identified in this report and by being more attentive to, and active in, addressing emerging issues rather than waiting until pressures for reform become irresistible.

- Public office-holders and organisations should seek to improve their own trustworthiness by consistently and reliably exemplifying high standards of ethical behaviour, openness and accountability and establishing and promulgating robust mechanisms for detecting and dealing with wrongdoing. They should endeavour to increase public understanding of their role and work and should aim to create a culture which harnesses the power of the media to promote high standards and deter or expose misconduct.
- The outstanding ethical issues identified in this report should be addressed actively before they become even more problematic and further undermine confidence in our public institutions.

Chapter 8:

Conclusions

- 8.1 Standards of behaviour are important both as a characteristic of good government and because they can help to deliver better outcomes for society. In the short term it might be possible to produce good outcomes without adhering to high standards. But that is unlikely to be sustainable over time. Meanwhile considerable damage can be done to reputation and confidence which are difficult to rebuild.
- 8.2 The main purpose of this review has been to take stock of what has been learnt over the almost two decades since this Committee was established about how to promote high standards in UK public life. We asked ourselves three questions.
- Have standards of conduct in public life improved since this committee first reported in 1995?
 - What do we now know about what work bests in promoting high ethical standards in organisations providing public services?
 - What needs to be done by whom to continue to embed high standards in public life?
- 8.3 Our answer to the first question is equivocal. On the one hand, standards of behaviour have improved significantly in many areas of public life. We believe that the considerable effort and expense devoted to that objective since 1995 has not been wasted.
- 8.4 On the other hand, in almost all the areas we have looked at, doubts remain. The introduction of transparency for political donations in 2001 might have ended some bad practices. But the public still believes, not without cause, that very large donations are solicited and given in the expectation of favours in return. Expenses systems in the UK's legislatures have been reformed. But it will be some time yet before public trust is restored. Many of the worst excesses of local authority members may have been ended. But instances of unacceptable behaviour continue to occur. The arrangements for making public appointments have been vastly improved. But accusations are still made about crony appointments.
- 8.5 Moreover, public scandals of a significant kind continue to occur on a regular basis. The last few months have seen major issues relating to the police, the BBC, care homes and a number of other key public institutions. Several revelations about historical events have revealed deliberate attempts to get round the rules and cover up the truth, which implies that the principles of public life are some way from being fully internalised. New risks arise with new structures and policies; and public trust and confidence in the integrity of many of our public institutions remain low and declining.
- 8.6 So while standards of behaviour in the UK may generally be high compared with those in many other countries, including some of our European neighbours, there remains much to do.
- 8.7 In answer to our second question, we know a lot about what works best in promoting high standards. The key elements remain much as Lord Nolan suggested: robust principles, effective codes tailored to the particular circumstances of the body concerned, training and guidance, good, relevant prompts, strong leadership and organisational processes demonstrating the principles in practice, sure and effective

responses to unethical behaviour and independent scrutiny. Together these elements help an organisation to achieve the right culture.

- 8.8 Many of the requirements for high standards require action at an organisational level. But high standards also require individuals to take personal responsibility – by observing high standards themselves, by demonstrating high standards to others through their own behaviour and by challenging inadequate standards when they see them. Mindlessly following rules and processes is not enough if people do not also engage their judgement about what is important. An individual who has internalised sound ethical principles and the reasons they are important is better able to make appropriate decisions than someone simply following a set of rules.
- 8.9 Our answer to the third question is that the main requirement now is not for additional principles, more codes or new regulators in any specific areas. It is for active management and constant vigilance. So all organisations delivering public services should ensure that they have robust governance processes in place to deliver and monitor high standards. Legislators and policymakers should be attentive to and active in addressing the current and emerging risks we have identified rather than waiting for some public revelation to force their hand; and those designing and procuring new forms of delivery of public services should ensure that they give priority to the maintenance of high standards in the new circumstances they are creating. In this report we have identified best practices designed to support these activities.
- 8.10 The behaviour of holders of public office is not independent of that of the society they serve. They come from the same populations on whose behalf they work. So they can be expected to share much the same general standards of morality as the rest of us exhibit in our own lives – though some of them may have different attitudes to risk. Some transgressions only occur in response to inducements offered by others. There would have been no paid advocacy in the House of Commons, for example, without someone offering cash for questions. Nor would there be an issue with police accepting payments for the provision of information without media organisations being willing to offer money for that information.
- 8.11 This is not to excuse poor behaviour. But it may help to keep it in perspective. We have a tendency to judge public office-holders by higher standards than we are always prepared to apply to ourselves. There is a need to acknowledge that those who interact with the public sector also have responsibilities.
- 8.12 We have been told that the low level of trust in holders of public office is inevitable. We do not agree and would argue that such a belief is damaging if it is used as an excuse for failing to address acknowledged problems. Of course, trust is a complex phenomenon and affected by many different factors. But the behaviour of those in authority must be one of the more significant. There can be no doubt that current levels of trust would be higher without the revelations of recent years. But many of these problems were well recognised before they became the subject of media stories. A more active approach to addressing them would have prevented much of the subsequent media storm and much of the damage to the reputation of individuals and institutions which resulted. Only if we adopt such an active approach can we realistically hope to increase public confidence in our public institutions.