

COMMITTEE ON STANDARDS IN PUBLIC LIFE

Triennial Review: Issues and Questions Paper

Introduction

1. On Tuesday 18 September 2012 the Minister for the Cabinet Office announced the start of the Triennial Review of the Committee on Standards in Public Life (CSPL). A copy of the Written Ministerial Statement is annexed to this paper. This document is the ‘issues and questions’ paper, referred to in the Minister’s statement.

2. The CSPL is a Non-Departmental Public Body (NDPB). The Cabinet Office produces guidance on reviews of NDPBs¹ which explains all reviews should be conducted in line with a set of key principles. They should be: proportionate, timely, challenging, inclusive, transparent and represent value for money. The guidance states that reviews have two principal aims:

- a. *‘to provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and*
- b. *where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.’*

3. The guidance also says reviews should be conducted in two distinct stages, to reflect the above two principal aims. Stage one should identify and examine the key functions and the form of the NDPB. Should it be decided that the body should remain as an NDPB, the review moves on to Stage two, which will consider the control and governance arrangements.

4. This paper asks questions about both stages of the review. I have asked for information relevant to the second stage of the review now so I have all the necessary information available at the start of the review. This avoids the need to ask further questions at a later date if the review concludes the CSPL should remain as an NDPB (see paragraph two, above).

5. In line with the Cabinet Office guidance, the review will look at the need for the function that the CSPL delivers. If it concludes that there is still a need for that function, then the review will consider what the most appropriate delivery model should be. This decision will be based on the evidence provided by written submissions to this paper and some interviews. The review will consult widely and welcomes contributions from anyone and everyone with an interest in the area. In short, it will be a fresh look at the CSPL eighteen years after the Committee was established.

¹ Guidance on Reviews of Non Departmental Public Bodies, June 2011
<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Cabinet-Office-Guidance-on-Reviews-of-Non-Departmental-Public-Bodies.pdf>

6. The review will focus on the role an ethics monitor and reviewer might play in 2012 and over the next few years, and on the CSPL as it is now and as it has developed over the last few years. It will not be a comprehensive analysis of the Committee's work since 1994.

Background to the CSPL

7. The CSPL was established in 1994 by the then Prime Minister (John Major) with the following terms of reference:

'To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life'²

8. In 1997 the then Prime Minister (Tony Blair) widened the terms of reference to include the funding of political parties:

'to review issues in relation to the funding of political parties, and to make recommendations as to any changes in the present arrangements'³

9. The CSPL is an advisory NDPB. Its sponsor Department is the Cabinet Office. It has ten members. The Conservative party, Labour party and the Liberal Democrat party each nominate one member. The remaining seven members (including the Chairman) are independent. Its budget is for 2011-12 was £638,000. In October 2011 £38,000 was returned, reducing the allocation to £600,000. Further details on expenditure can be found in the Committee's Annual Reports. The Reports also include information on the remuneration of the Committee members.

10. Lord Nolan was the first Chairman of the Committee. His successors were: Lord Neill, Sir Nigel Wicks, and Sir Alastair Graham. Sir Christopher Kelly is the current Chairman.

11. The CSPL has published thirteen Reports. These include reports on: Standards in Public Life (1995, their first report), Local Public Spending Bodies (1996, their second report), The Funding of Political Parties in the UK (1998, their fifth report), Standards of Conduct in the House of Commons (2002, their eighth report), Review of the Electoral Commission (2007, their eleventh report) and Political Party Finance (2011, their thirteenth report). The Committee also undertakes, amongst other things, two-yearly research into public attitudes to ethical issues and conduct. Full details of the Committee's work, including all their reports, are available on their website.⁴

12. The CSPL Inquiry reports are presented to the Prime Minister and through him to Parliament as a published Command Paper. The Committee is free to choose subjects of inquiry, after consultation with the Prime Minister.

² HC Deb 25 October 1994 Vol 248 cc757

³ Hansard, 12 November 1997, column 899

⁴ <http://www.public-standards.gov.uk/index.html>

13. There was a Quinquennial review of the CSPL in 2000. The final paragraph of the review concluded:

*'In summary, the first five years of the Committee's existence has seen significant developments in standards in public life. Much has been achieved but a certain amount of work remains before the ethical framework can be said to have been comprehensively surveyed. That is why the Committee has begun its study into the rules which govern the conduct of Members of the House of Lords. There is no reason in the immediate future to alter the size of the Committee. In due course there will be periods in which the Committee and its secretariat are not engaged in a study but continue to monitor the ethical environment. This will require willingness on the part of members of the Committee to work flexibly and the arrangements for staffing the secretariat must reflect that flexibility. When studies are undertaken the Committee may wish to consider adopting methods of working which vary according to the subject matter, sometimes using informal ways of gathering evidence in place of public hearings.'*⁵

14. The above paragraphs are a brief outline of some of the key features of the CSPL. They are not meant to be a comprehensive summary of their work or governance. Further helpful background information on the Committee can be found on their website and in their Annual Reports. Two further sources of background information are the 2008 House of Commons Library note on the Committee⁶ and the Committee's memorandum to the Public Administration Select Committee's 2006 Inquiry on *Ethics and Standards: The Regulation and Conduct in Public Life*.⁷

Issues and Questions

15. The questions below are not an exhaustive list. I am very willing to receive suggestions of other issues and questions that respondents think should be considered as part of the review.

Part one of the review – the functions and form of the CSPL

16. The 2000 Quinquennial review concluded that: *'Two things are now clear. The task is substantially completed and the ethical framework has been changed significantly. Yet there remains a continuing need to monitor the ethical environment and to respond to issues of concern which may arise'* (paragraph 23). Twelve years on, is this still the case?

17. In summary: **Do the key functions of monitoring and reviewing big emerging questions performed by the CSPL continue to be necessary and, if so, do they need to be done by the CSPL?**

18. Some specific questions are:

⁵ <http://www.public-standards.gov.uk/Library/OurWork/QuinquennialReview.pdf>

⁶ <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-04888.pdf>

⁷ <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmpublicadm/121/121ii.pdf>

Q1: Does the UK still need a permanent ethics monitor and reviewer? Or, now that several regulators are in place (for example the Electoral Commission) are there other bodies that could effectively carry out this role?

Q2: The CSPL's current remit covers Scotland, Wales and Northern Ireland. Should it be looking at developments in the Devolved Administrations?

Q.3 How well do you think the CSPL fulfils its role at present? What do you think it should do?

Q4: Is the CSPL the right body to do this work, in the light of what it is doing now?

Q5: If there is a need for a body to fulfil this role, should it be done by some other organisation?

Q6: What other organizations might carry out the CSPL's role - another non-departmental public body, or Parliament? Are there parts of the Committee's work, such as research into public attitudes, which could be done elsewhere?

Q7: Should the CSPL's role as an ethics monitor and reviewer remain separate from the remit of specific regulators?

Q8: Should the CSPL have a more formal relationship with regulators, or is the current, informal, relationship the right one?

Q9: Should the CSPL's remit be limited to systems and structures, as it is now, or should it look into particular complaints?

Q10: The Public Administration Select Committee recommended in its July 2012 Report: *Business Appointments Rules*⁸ that the Government consider merging the role of the CSPL into those of a statutory Conflict of Interest and Ethics Commissioner (based on the Canadian Commissioner of the same title). Should this idea be looked at in more detail?

Q11: How do other countries manage the work that CSPL does and are there any lessons to be learnt from how similar bodies in these countries operate, like the Canadian model (see above)? Could they work in the UK?

Part two of the review – the control and governance of the CSPL

19. In summary: **If you consider that an advisory NDPB is the right way to deliver the CSPL's functions are the current control and governance arrangements the right ones?**

20. Some specific questions are:

⁸ <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpublicadm/404/404.pdf>

Q12: Membership – is the method of selecting the members of the Committee right? Should there be a change to the number of members of the Committee? Is the length of time Committee members serve, from 2012, fixed terms of five years right? Is the balance of members experience and background correct? Should an attempt be made to broaden the range of experience and background of members? Given the length of time it can take to appoint members, is the appointment process working as well as it should do? Or is it too time consuming? Should there be a smaller core of permanent members with the freedom to bring in expertise as necessary?

Q13: Resources – does the Committee have enough resources and expertise to fulfil its functions? Should the Committee continue to be funded by the Cabinet Office and housed on the Cabinet Office estate? Should the Committee Secretariat continue to be staffed by civil servants?

Q14: Work programme – should the Committee, as now, have to consult, though not seek the agreement of, the Prime Minister before beginning its Inquiries, or should it be free to investigate issues as it sees fit? How does the Committee decide on what to investigate? Are its methods appropriate and effective? Are there areas that the Committee should have investigated but has not, and vice versa? Are there now areas that should be left to the specific regulators rather than the Committee? The Committee has historically conducted its Inquiries by seeking written evidence and then holding oral hearings, both in London and around the UK, is this the most inclusive and efficient method? Its current Inquiry is using themed seminars with invited attendees. Is that sufficient to get a wide range of opinions?

Q15: Governance – should the Committee continue to report to the Prime Minister? Or should it be accountable either wholly, or partly, to Parliament beyond a pre-appointment scrutiny by the Public Administration Select Committee? In order to reinforce its independence, should the Committee be put on a statutory basis? Should the Committee continue to be a standing committee, permanently active, monitoring, commenting on developments carrying out research etc, as it is now, or should it only be convened to carry out specific Inquiries?

21. In accordance with Cabinet Office guidance, part two of the review will also include an assessment of adherence against each of the principles of good corporate governance, using the standard comply or explain methodology.

How to respond to this paper

22. Responses should be received by Wednesday 31 October 2012. Any responses received after this date may not be considered. Responses will be treated as evidence to the review and may be published, in whole or in part, as part of the final report. Responses do not need to answer all of the questions. Respondents may be contacted to follow up particular points. If respondents would like any, or part, of their response to be treated in confidence please get in touch in advance of submitting any information. Responses should be sent, preferably by email to the following address:

cspreview@cabinet-office.x.gsi.gov.uk

Alternatively, responses can be sent by post to the Cabinet Office:

The Rt Hon Peter Riddell CBE
Cabinet Office
Room 208
70 Whitehall
London, SW1A 2AS

Peter Riddell
10 October 2012

ANNEX – Written Ministerial Statement

Committee on Standards in Public Life (Triennial Review)

The Minister for the Cabinet Office and Paymaster General (Mr Francis Maude):

I am today announcing the start of the triennial review of the Committee on Standards in Public Life (CSPL). Triennial reviews of non-departmental public bodies (NDPBs) are part of the Government's commitment to ensuring that NDPBs continue to have regular challenge on their remit and governance arrangements.

The review will be undertaken by an independent external reviewer, Peter Riddell, Director of the Institute for Government, who will want to consult widely with relevant stakeholders, including Parliament, the devolved Administrations, the main political parties, academics, ethics regulators and others with an interest in the work of the Committee. He will be issuing an issues and questions paper in due course and the findings of the review will be published. Peter will be supported in the review by the Cabinet Office. At his request, he will not be paid for his time.

In common with all such reviews, Peter Riddell will undertake the following:

to challenge the continuing need for this NDPB—both its functions and form; and;

if it is agreed that it should remain as an NDPB, to review its control and governance arrangements to ensure that it is complying with recognised principles of good corporate governance.

The aim will be to complete the review in the autumn.