



Submission from Spotlight on Corruption to the Committee on Standards in Public Life

Consultation: Standards Matter 2

Spotlight on Corruption is an anti-corruption charity (registration number 1185872) that works to end corruption within the UK and wherever the UK has influence. Our vision is for a society where strong, transparent, and accountable institutions ensure that corruption and associated economic crime is not tolerated.

We are submitting evidence to this consultation because we are concerned that the UK's framework for regulating ethical standards for people with top executive functions in central government is not fit for purpose. The regulatory framework developed as a patchwork in response to scandals rather than as a coordinated, coherent system for identifying and managing risks. Successive governments have not adequately reformed the system and serious public integrity issues are not being tackled. This risks undermining public trust in executive institutions¹ and weakening those institutions.²

Accordingly, we recommend that the Committee on Standards in Public Life (CSPL) conduct a review, building on this consultation, into which of the institutions regulating ethical standards should be consolidated into an independent, transparent, accountable statutory regulator, with the remit, powers and resources to properly regulate ethical standards and hold people with top executive functions and other public officials to account. Our preference would be for the Advisory Committee on Business Appointments (ACoBA) and the Independent Adviser on Ministers' Interests – and potentially other institutions, subject to CSPL's review – to be replaced with an independent Ethics Commission; and for this Commission to oversee and enforce enhanced, statutory codes of conduct for ministers and special advisers, and post-employment rules for senior civil servants.

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¹ Heywood, P. and Kirby, N. (2020) *Public Integrity: from anti-corruption rhetoric to substantive moral ideal*, Studi su legalita e partecipazione

² Platt, E. and Parker, G. (17 October 2012) *UK credit rating downgraded by Moody's* <https://www.ft.com/content/117349e4-dc95-4509-969b-26dcde1773>

Question 3(A): Are you confident that the UK's arrangements for regulating ethical standards are robust and effective?

1. The UK's system for regulating the ethical standards of ministers, special advisers and senior civil servants is in need of reform. The Group of States Against Corruption (GRECO),³ the Public Administration and Constitutional Affairs Committee (PACAC),⁴ and the 2019 review of the UK's implementation of the UN Convention against Corruption⁵ (UNCAC) all identified that the UK's framework for regulating ethical standards in central government is inadequate.
2. Because the UK's regulation of ethical standards developed in response to scandals, there is no coordinated system for actively analysing and strategically considering how to respond to risk areas.⁶ The Joint Anti-Corruption Unit coordinates governance on anti-corruption risks more broadly but is not mandated to address corruption in politics. Regulation of ethical standards need to be enhanced in response to existing integrity problems and an independent mechanism tasked with analysing and managing risks. In addition, the institutions that regulate the standards of people with top executive functions should more actively promote public integrity and positive behaviour, and create an environment in which codes of conduct are effective.⁷
3. We support GRECO's recommendations to adopt a more holistic approach to defining risks of corruption and conflicts of interest in central government, and to establish a centralised mechanism to analyse corruption risk areas and conflicts of interest for individuals with top executive functions, in order to mitigate risks;⁸ and the recommendations from the UNCAC review to strengthen the mechanism for analysing and mitigating risks around conflict of interests and corruption by those in top executive functions, and to establish a more centralised

³ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 4

⁴ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) 13th report of 2016-17, *Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 6

⁵ UN Office on Drugs and Crime (May 2019) *Review by Turkey and Israel of the implementation by the United Kingdom of Great Britain and Northern Ireland of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935066/Country_Review_Report_of_the_Unit_ed_Kingdom.pdf pp. 91-92

⁶ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 13

⁷ Heywood, P. et al (28 February 2017) *Integrity and Integrity Management in Public Life*

⁸ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 14

process of conflicts of interest management and reporting by ministers and senior civil servants.⁹

Our proposals for a new statutory regulator are set out in this submission.

Question 3(B): Are there any areas of public life where regulation on issues of ethical standards is not strong enough?

Ministerial Code of Conduct

4. In our view, the non-statutory Ministerial Code of Conduct lacks transparency, independence, and a suitable enforcement mechanism. The Prime Minister has the sole power to initiate investigations into alleged breaches of the Ministerial Code and to decide on the consequences, including what, if any, sanctions to impose.¹⁰ As a result, ministers are often not held accountable for alleged wrongdoing. We share the view of the Chair of the CSPL, that it is not satisfactory for the Prime Minister alone to judge ministerial standards or for issues of public concern to be unresolved because investigations are not triggered.¹¹
5. Vesting one individual with the power to interpret and enforce the Ministerial Code is problematic due to differing attitudes to standards and compliance. By way of example, the current Prime Minister was found to have breached the Ministerial Code and Business Appointment Rules in August 2018, when he signed a contract with the Daily Telegraph within a week of resigning as Foreign Secretary.¹²

⁹ UN Office on Drugs and Crime (May 2019) *Review by Turkey and Israel of the implementation by the United Kingdom of Great Britain and Northern Ireland of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935066/Country_Review_Report_of_the_United_Kingdom.pdf pg. 91

¹⁰ This reflects in part the constitutional principle that the Prime Minister has the power to appoint and dismiss ministers – The Cabinet Office Manual (October 2011) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60641/cabinet-manual.pdf pg. 21

¹¹ Committee on Standards in Public Life (24 November 2020) *oral evidence: Code of Conduct*, HC 671 <https://committees.parliament.uk/oralevidence/1296/html/>; for example, the Prime Minister declined to ask the Cabinet Secretary to investigate allegations that Robert Jenrick breached the Ministerial Code for alleged abuse of his powers: Syal, R. (26 June 2020) *Labour reports Robert Jenrick to parliamentary watchdog* <https://www.theguardian.com/politics/2020/jun/26/labour-reports-robert-jenrick-to-parliamentary-watchdog>

¹² Office of the Advisory Committee on Business Appointments (8 August 2018) letter to Boris Johnson MP https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732866/180808_Boris_Johnson_The_Telegraph.pdf

6. Ministers are required to declare their interests, including any “*relevant interests*”, on appointment and then every six months, to help ensure that no conflict arises.¹³ The Central Propriety and Ethics team in the Cabinet Office provides guidance on what constitutes “*relevant interests*”.¹⁴ Decisions are taken by the government collectively, however, informal dialogues between a minister and the Propriety and Ethics team filter and narrow potential interests according to the minister’s responsibilities. The scope of “*relevant interests*” should be substantially clarified and broadened, as recommended by GRECO¹⁵ and the UNCAC review.¹⁶
7. We recommend that the Ministerial Code be enhanced and given a statutory basis to improve its effectiveness, enabling ministers to be investigated and suitable sanctions imposed by an independent Ethics Commission, and that the revised code – covering conflicts of interest, lobbying, financial disclosures and post-employment rules – be overseen by this Commission.

Code of Conduct for Special Advisers

8. Unlike the Ministerial Code, the Code of Conduct for Special Advisers has a statutory footing under the Constitutional Reform and Governance Act 2010.¹⁷ Special advisers are bound by the standards of honesty and integrity expected of civil servants, but exempt from the obligations to act with impartiality and objectivity or to follow the Nolan Principles.
9. Ministers are responsible for ensuring that special advisers they appoint comply with the Code of Conduct and for any disciplinary measures that stem from a breach.¹⁸ Apparent breaches

¹³ Report by the Independent Adviser on Ministers’ Interests

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/579780/Independent-Adviser-on-Ministers-Interests-2016.pdf

¹⁴ For example, the Cabinet Office determined that the contents of the Chancellor’s blind trust, in circumstances that indicate a possible conflict of interest, does not amount to a relevant interest: Garside, J. (17 November 2020) *Rishi Sunak refuses to say if he will profit from Moderna Covid vaccine* <https://www.theguardian.com/politics/2020/nov/17/rishi-sunak-refuses-to-say-if-he-will-profit-from-moderna-covid-vaccine>

¹⁵ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 31

¹⁶ UN Office on Drugs and Crime (May 2019) *Review by Turkey and Israel of the implementation by the United Kingdom of Great Britain and Northern Ireland of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935066/Country_Review_Report_of_the_United_Kingdom.pdf pp. 91-92

¹⁷ Section 8 of the Constitutional Reform and Governance Act 2010

¹⁸ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 12

being tolerated without consequence – as with apparent breaches of the Ministerial Code – have had a corrosive effect on public confidence in the government.¹⁹

10. We recommend that the Code of Conduct for Special Advisers be enhanced to improve its effectiveness, enabling special advisers to be investigated and suitable sanctions imposed by an Ethics Commission, and that the revised statutory code – covering conflicts of interest, lobbying, financial disclosures and post-employment rules – be overseen by this Commission.

Civil Service Code

11. The Civil Service Code has a statutory footing in the Constitutional Reform and Governance Act 2010. The Code needs a clearer set of principles for private sector interests²⁰ and we note that monitoring and reporting on the appointments of former civil servants is presently inadequate.²¹ The private appointments of senior civil servants leaving public office, at level SCS1 and above, should be regulated by an independent Ethics Commission.

Question 4(A) What makes an effective standards regulator?

12. To effectively supervise ethical conduct of people with top executive functions, a standards regulator needs to be fully independent, accountable, transparent and adequately resourced. It needs to construct and maintain public legitimacy, have institutional and political support, and maintain a value-added contribution to democratic governance.²²
13. In 2012, the Public Administration Select Committee recommended abolishing ACoBA and establishing an independent Ethics Commissioner, drawing on the model in Canada.²³ The

¹⁹ Gordon, M. (3 June 2020) *Dominic Cummings and the Accountability of Special Advisers* <https://ukconstitutionalallaw.org/2020/06/03/mike-gordon-dominic-cummings-and-the-accountability-of-special-advisers/>; see also The Lancet (6 August 2020) *The Cummings effect: politics, trust, and behaviours during the COVID-19 pandemic* [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31690-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31690-1/fulltext)

²⁰ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) 13th report of 2016-17, *Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 35

²¹ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) 13th report of 2016-17, *Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 16

²² Ackerman, J. M. (2010) *Understanding independent accountability agencies*

²³ Public Administration Select Committee (17 July 2010) 3rd report of session 2012-13: *Business Appointment Rules* <https://publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/404/404.pdf>

government rejected the proposal because it believed ACoBA “*does an effective job*”.²⁴ In 2017, PACAC reiterated the suggestion of an Ethics Commissioner, noting that a statutory scheme would improve status, visibility, perceptions of independence, and moral leadership.²⁵

14. The UK is working towards joining the Trans-Pacific Partnership (TPP) and many of the TPP members – for example, Canada, Australia and the US – have, or are in the process of implementing, centralised anti-corruption and pro-integrity institutions.²⁶ We have considered the regulatory arrangements of selected TPP members and note the following:

- a. In Canada, the Office of the Conflict of Interest and Ethics Commissioner reports directly to Parliament, not the government.²⁷ The Commissioner may only be removed for cause. The Commissioner enforces the Conflict of Interest Act and Conflict of Interest Code for Members of the House. The Act gives statutory effect to conflict of interest and post-employment rules and applies to ministers, ministerial advisers, and other designated public office holders.²⁸
- b. In the US, both the Senate and the House of Representatives have committees to regulate ethical standards, enforce the Codes of Official Conduct, investigate allegations of improper conduct, and recommend disciplinary action by the House or Senate; although the bodies lack political independence.²⁹ States, counties and cities across the US have established Ethics Commissions.³⁰ Joe Biden has set out proposals for a Commission on Federal Ethics.³¹
- c. In Australia, the proposed Federal Integrity Commission would establish an independent body to implement a national pro-integrity framework, with powers to assess and investigate,

²⁴ Government Response to the Committee’s Third Report of Session 2012–13 (17 July 2014)

<https://publications.parliament.uk/pa/cm201415/cmselect/cmpubadm/563/56304.htm> para 33

²⁵ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) 13th report of 2016-17, *Managing Ministers’ and officials’ conflicts of interest: time for clearer values, principles and action*

<https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 40

²⁶ Department for International Trade press release (9 September 2020) *UK takes major step towards membership of Trans-Pacific free trade area*

<https://www.gov.uk/government/news/uk-takes-major-step-towards-membership-of-trans-pacific-free-trade-area>

²⁷ Office of the Conflict of Interest and Ethics Commissioner, Canada <https://ciec-ccie.parl.gc.ca/en/About-APropos/Pages/Independence-Independence.aspx>

²⁸ Conflict of Interest Act 2006 <https://laws-lois.justice.gc.ca/eng/acts/c-36.65/fulltext.html>

²⁹ GRECO (17 January 2017) *Fourth Evaluation Report of the United States of America*

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806dc0f7> pg. 13

³⁰ Campaign Legal Center (17 May 2018) *Principles for Designing an Independent Ethics Commission*

<https://campaignlegal.org/document/principles-designing-independent-ethics-commission>

³¹ *The Biden Plan to Guarantee Government Works for the People* <https://joebiden.com/governmentreform/>

and to enable proportionate responses to allegations of corruption at the federal level.³² The model has, however, been criticised for being insufficiently robust and lacking transparency.³³

Question 4(B) Do the UK's standards regulators have the right powers and remit to act effectively?

15. For the purposes of this submission, we have focused on the institutions that regulate the standards of people with top executive functions in central government.

Independent Adviser on Ministers' Interests

16. The Independent Adviser on Ministers' Interests is a non-statutory, non-independent role appointed by the Prime Minister. He or she can investigate alleged breaches of the Ministerial Code but only when directed by the Prime Minister. The Adviser can suggest sanctions but the Prime Minister decides what is appropriate and oversees enforcement.

17. Cases are usually resolved by the Prime Minister without an investigation. There have been few investigations by the Adviser since the role was created in 2006, and they did not result in sanctions.³⁴ In November 2020, the former Adviser stepped down after the Prime Minister overruled his decision that Priti Patel had breached the Ministerial Code for alleged bullying, and due to other concerns.³⁵ The Adviser's role was further diminished by an amendment in 2019, with the result that they "may" (formerly "will") be asked to investigate alleged breaches. At the same time, the investigative role of the Adviser was extended to include the Cabinet Office.³⁶

18. Recommendations from the Public Administration Select Committee in 2012, to make the Adviser's role independent and more powerful, including the power to launch investigations,

³² Explanatory Memorandum of the Australian Federal Integrity Commission Bill 2020

³³ Knaus, C. (3 November 2020) *Toothless tiger? Five problems with the Coalition's anti-corruption commission* <https://www.theguardian.com/australia-news/2020/nov/03/toothless-tiger-five-problems-with-the-coalitions-anti-corruption-commission>

³⁴ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 31

³⁵ Haddon, C. (20 November 2020) *The handling of the Priti Patel bullying inquiry has fatally undermined the Ministerial Code* <https://www.instituteforgovernment.org.uk/blog/priti-patel-bullying-inquiry-undermined-ministerial-code>

³⁶ Gordon, M. (23 November 2020) *Priti Patel, the Independent Adviser, and Ministerial Irresponsibility* <https://ukconstitutionallaw.org/2020/11/23/mike-gordon-priti-patel-the-independent-adviser-and-ministerial-irresponsibility/>

were rejected by the government.³⁷ The Committee's concerns were echoed by GRECO, which identified that *"the system is largely reliant on self-regulation, integrity and reputation"*³⁸, and by the CSPL, which has called for more independence to be afforded to the Adviser.³⁹

Advisory Committee on Business Appointments

19. ACoBA advises former ministers, special advisers and senior civil servants (at level SCS3 and above) on the Business Appointment Rules. The Rules have no statutory basis and there are no sanctions for non-compliance.⁴⁰ ACoBA can advise that an appointment is *"unsuitable"* but cannot prevent it being accepted. The body does not have powers to supervise non-compliance, to investigate any failure to seek its advice, to impose sanctions when its advice is ignored or not sought, or to scrutinise former ministers who return to government.⁴¹ ACoBA's workload has increased but this has not been matched by increased funding.⁴²

20. ACoBA has been criticised for rubber stamping approval for individuals to take up employment rather than enforcing high standards of conduct.⁴³ 137 former ministers sought clearance for 394 jobs from ACoBA between 2010 and 2016 but none were refused.⁴⁴ The body lacks transparency and acknowledges that informal conversations can turn unsuccessful applications

³⁷ Government's response to the Public Administration Select Committee's 22nd report of session 2010-12 (12 February 2013)

<https://publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/976/976.pdf>

³⁸ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 28

³⁹ Evans, J. (12 November 2020) *The Hugh Kay Lecture: Are we in a post-Nolan age?* <https://www.gov.uk/government/speeches/the-hugh-kay-lecture-are-we-in-a-post-nolan-age>

⁴⁰ *Business Appointment Rules for Former Ministers*

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/579754/Business_appointment_rules_for_former_ministers.pdf

⁴¹ Miller, P. (28 January 2021) *Britain's Africa minister, who welcomed Uganda's flawed election, had business ties to an ally of the country's president* <https://www.dailymaverick.co.za/article/2021-01-28-britains-africa-minister-who-welcomed-ugandas-flawed-election-had-business-ties-to-an-ally-of-the-countrys-president/>

⁴² House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) thirteenth report of 2016-17, *Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 13

⁴³ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) thirteenth report of 2016-17, *Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 29

⁴⁴ Private Eye (16 September 2016) *Public Servants, Private Paydays* https://www.private-eye.co.uk/pictures/special_reports/revolving-doors.pdf pg. 1

into successful ones.⁴⁵ Independent members of the panel often retain roles in commerce and have failed to recuse themselves consistently when a conflict arises.⁴⁶

21. ACoBA does not cover director (SCS2) or deputy director (SCS1) level civil servants, key grades for “developing policy, delivering services, making decisions and negotiation contracts.”⁴⁷ As noted above, there is not enough transparency and scrutiny in departments’ monitoring and reporting on the appointments of former civil servants below director-general level.⁴⁸

22. PACAC has repeatedly expressed concerns about the Business Appointment Rules and ACoBA’s failure to regulate the interchange between the public and private sector, but the government has rejected their recommendations for reform.⁴⁹ In a 2017 report, PACAC concluded that “the regulatory system for scrutinising the post public employment of former Ministers and civil servants is ineffectual and does not inspire public confidence or respect.”⁵⁰

Question 4(C) Should the independence of standards regulators be enhanced and protected, and if so, how?

23. One approach to improving the regulatory framework for ethical standards of people with top executive functions would be to implement GRECO’s recommendations and increase the powers and resources of ACoBA⁵¹ and the Adviser.⁵² Similarly, the UNCAC review recommended

⁴⁵ Advisory Committee on Business Appointments (26 August 2015) *Sixteenth Annual Report 2014–15* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/541298/ACoBA_14-15_Annual_Report.pdf pg. 7

⁴⁶ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) thirteenth report of 2016-17, *Managing Ministers’ and officials’ conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 10

⁴⁷ High Pay Centre (25 March 2015) *The Revolving Door and the Corporate Colonisation of UK Politics*, pg. 29

⁴⁸ House of Commons Public Administration and Constitutional Affairs Committee (24 April 2017) thirteenth report of 2016-17, *Managing Ministers’ and officials’ conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 16

⁴⁹ For example, the Public Administration and Constitutional Affairs Committee: *ACoBA and Independent Adviser on Ministers’ Interests inquiry* <https://old.parliament.uk/business/committees/committees-a-z/commons-select/public-administration-and-constitutional-affairs-committee/inquiries/parliament-2015/acoba-and-independent-adviser-on-ministers-interests-16-17/>

⁵⁰ Public Administration and Constitutional Affairs Committee (24 April 2017) thirteenth report of 2016-17, *Managing Ministers’ and officials’ conflicts of interest: time for clearer values, principles and action* <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/252/252.pdf> pg. 3

⁵¹ GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 30

⁵² GRECO (8 December 2017) *Fifth Evaluation Round Report of the United Kingdom* <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168088ea4c> pg. 33

strengthening the application of the Business Appointment Rules and the remit and powers of ACoBA, and reviewing and strengthening the remit of the Adviser.⁵³

24. In our view, however, the regulation of ethical standards would be better served by a new independent, accountable, and transparent statutory regulator.⁵⁴ To that end, we recommend that CSPL conduct a review into: which of the institutions currently regulating ethical standards should be consolidated and merged into a new regulatory body, with the remit, powers and resources to properly regulate ethical standards and hold people with top executive functions and other public officials to account; analysis of how the new body would fit into the current or consolidated landscapes; a comparison of the regulatory models and functions in other jurisdictions with the UK; testing of the current and proposed regimes against criteria for best practice; and a cost-benefit analysis of moving to a statutory regulator.

Proposal for an independent Ethics Commission

25. Our preference would be for ACoBA and the Independent Adviser on Ministers' Interests – and potentially other institutions, subject to CSPL's review – to be replaced with an independent Ethics Commission, and for this Commission to oversee and enforce enhanced, statutory codes of conduct for ministers and special advisers, covering conflicts of interest, lobbying, financial disclosures and post-employment rules, with suitable penalties; additionally, to oversee post-employment rules for civil servants at level SCS1 or above. In our view, an independent Ethics Commission would improve a culture of integrity, increase public trust in government, identify corruption risks, and make government more accountable and representative.⁵⁵

26. The Ethics Commission should have the powers (subject to CSPL's review of its relationship with law enforcement agencies) to enforce the rules and hold public officials to account, including to act on complaints, conduct investigations, access documents, hold public hearings, compel

⁵³ UN Office on Drugs and Crime (May 2019) *Review by Turkey and Israel of the implementation by the United Kingdom of Great Britain and Northern Ireland of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935066/Country_Review_Report_of_the_United_Kingdom.pdf pp. 91-92

⁵⁴ Public Administration Select Committee (17 July 2010) 3rd report of session 2012-13: *Business Appointment Rules* <https://publications.parliament.uk/pa/cm201213/cmselect/cmpubadm/404/404.pdf> pg. 25

⁵⁵ Campaign Legal Center (17 May 2018) *Principles for Designing an Independent Ethics Commission* <https://campaignlegal.org/document/principles-designing-independent-ethics-commission>

witnesses to attend, impose sanctions for non-compliance, and refer cases for prosecution. It should have its own budget and the power to employ support staff and independent experts; and provide training and advice to public officials to help ensure compliance.

27. The Ethics Commission should operate independently of the public officials in respect of whom it has oversight and be structurally independent from those officials and their institutions. Three or five independent Commissioners should be selected on the basis of merit and relevant experience through a transparent process that ensures independence. The Ethics Commission should be fully accountable, and report directly to Parliament rather than to the Prime Minister.
 28. The Ethics Commission should also be fully transparent and publish policies and procedures with clear written guidance, including the process it will follow when considering a breach of the rules, and promptly publish all of its decisions and the details of any enforcement actions.
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