

GOVERNANCE PROJECT



INTRODUCTION

1. This Report provides, through 11 sets of Recommendations, pragmatic and implementable solutions to weaknesses in the governance standards of the UK.
2. Recent years have seen growing concerns about aspects of the way the UK is governed. Examples include concerns about standards of conduct of those in Ministerial, and other public, office; the management of conflicts between personal and national interests; the way in which appointments are made to the House of Lords and other public offices; weaknesses in Parliament's ability to scrutinise the work of Government, including the increased use of secondary legislation to make important law; and relationships between the Government and the Civil Service. To an extent the concerns reflect the fluid nature of the UK constitution, the lack of hard-edged controls on the exercise of power, and the reliance on "conventions" or practices (of varying degrees of formality, clarity and enforceability, the "good chap" theory) which have increasingly proved to be inadequate.
3. The result is that decisions are often seen to have been motivated not by the national interest; and not subject to proper accountability or scrutiny, in particular to, and by, Parliament. Public confidence in our governing institutions is low.
4. The Recommendations are made by a party-neutral Commission, with deep personal experience of the issues, having reviewed the wealth of valuable research and published material in the relevant fields.
5. The Recommendations could be easily implemented, without material cost, by a Government of any political composition that wanted effective reform, better governance and more effective government in the UK.
6. The 11 sets of Recommendations are grouped around:
 - a. restoring high standards of integrity in public office;
 - b. enhancing the role of Parliament;
 - c. better working between Government and the Civil Service; and
 - d. protection of our democracy.
7. Each offers improvements. Collectively, they would address many of the well-publicised problems, enhance effective decision-making and make the exercise of power in the UK more structured, transparent, effective and responsible. Although often technical in nature, these changes are intended to help bring about deep-seated change by creating tough and effective 'guardrails' for public standards so that they are restored and upheld.
8. That change would help to underpin our democracy and improve the life of citizens. Additionally, it would contribute to the economic success of the UK. Restoring the public and international perception of the UK, as a well-run and low risk country, would reduce the UK's risk premium and stimulate internal and international investment, which, in turn, supports growth.
9. Moreover, it matters to the electorate. There is cogent evidence that the public strongly want the UK to be run more effectively and fairly; they expect better of our leaders, who, in turn, would be greatly helped by a more efficient and supportive framework.

Background

10. The Commission was formed in July 2023 and continued its work until January 2024. It is politically independent and party-neutral. Its members are set out in Annex 1.
11. A fuller statement of the background to the Commission is provided in Annex 2.
12. Annex 3 provides a statement of the problem which the Commission's Recommendations are trying to resolve.
13. The principles which the Commission applied, and its working methodology, are briefly summarised in Annex 4.
14. The Commission was enormously assisted by the advice and views of a large group of expert consultees, to whom we are enormously grateful. The names of some but not all of them are listed in Annex 5.
15. Annex 6 lists areas that fall outside the scope of the Commission's role and resources, but which the Commission considered to be of high importance and to merit further and more detailed consideration based on more and wider evidence, contributions and analysis. These are important issues that should also be pursued to make further improvements in governance.
16. Each of the 11 sets of Recommendations is set out in full after this Introduction. Each has a set of supporting materials including costs and risks; interdependencies; sources of information and acknowledgments; and a comment on the key considerations underlying the proposals. That supporting material is available on the website for the Commission (<https://www.ukgovernanceproject.co.uk>), separated by reference to each of the 11 Recommendations.
17. Annex 7 provides a selection of snapshots of public opinion (drawn from polling, deliberative exercises, academic and other writings) relating to the subjects of the Recommendations. These materials demonstrate the high degree of importance that voters attach to these matters.
18. Our website (<https://www.ukgovernanceproject.co.uk>) also provides a bibliography of the reports, analyses and other material that the Commission found particularly helpful in its deliberations.

Structural and operational matters

19. As summarised below, the Recommendations include the independent enforcement, jointly, of (i) the Ministerial and SpAd Codes; and (ii) respective conflicts of interest regimes. Those two activities would be undertaken by the same individual, referred to as the "Code Commissioner". It would be possible that there could be efficiencies, consistency and other wider benefits to the co-location and resource sharing of the bodies charged with performing similar investigatory roles (e.g. including the proposed investigatory role for the Civil Service Commission (in relation to the Civil Service Code)) and, indeed, if appropriate, the support for other bodies envisaged by the Recommendations including ACoBA and HOLAC. Other bodies active in this area could be added. While respecting the distinct difference and importance of separation between the Executive and Parliament, it would be helpful if there was sensible coordination in relation to similar House of Commons and House of Lords Standards and Conflicts processes.
20. These are operational matters to be considered on implementation. If current proposals to create a new office or commission charged with public integrity more generally are pursued, the elements proposed in the Recommendations, and the support services for them, could readily be subsumed within that single function. However, the creation of such an office or commission is not a pre-condition to the implementation of the Recommendations as drafted.

21. As a matter of governance, any such evolving ethics structure should encompass an independent body responsible for monitoring its proper functioning and, critically, for ensuring its ongoing continuous improvement. The Commission envisages that this body's role should include at least:
 - a. a responsibility to review, regularly, the performance of the relevant independent bodies, with particular respect to the consistency, effectiveness, fairness and comprehensiveness of their discharge of their obligations (as a minimum this would encompass the bodies the subject of the public integrity-related Recommendations but it could also be extended to include other bodies carrying out similar functions) and an obligation to consider whether any further improvements are necessary or desirable (i) in the structure proposed in the Recommendations (or more widely in the field of ethical standards) or (ii) in governance in the UK, to create a process of continuous improvement;
 - b. assessments that take account of the views of the various bodies concerned and any submissions that they receive from affected parties; and
 - c. an annual review and report to the Public Administration and Constitutional Affairs Committee (PACAC).
22. These obligations should, ideally, be vested in an existing body in preference to the creation of a new one. By remit and personnel, the Committee on Standards in Public Life (CSPL) would be the best suited of the current existing bodies to take on this role, but re-launched with a new independent focus and role. The CSPL is currently dependent on the Cabinet Office for resources and is ultimately subject to the direction of the Prime Minister, rather than accountable to Parliament. From a governance perspective, this is unsatisfactory and the re-launched CSPL (or any alternative) should be established on a genuinely independent basis, reporting to Parliament. This could be achieved by way of a simple addition to the statute envisaged by the Recommendation which provides for the appointment of the Code Commissioner. Were the proposals mentioned in paragraph 20 to be implemented, such a relaunched CSPL (or alternative) might function as a board of, or advisory board to, any such office or commission.

Implementation

23. Five of the Recommendations (those relating to the Ministerial Code, Conflicts of Interest, HOLAC, ACoBA, and the Electoral Commission) would require primary legislation for implementation, as would one element of the Civil Service Recommendation and the limited tax relief on disposals under Conflicts of Interest. Such legislation should not be technically complicated and, with the exception of the Electoral Commission provisions, might readily be included within a single statute; the relevant Recommendations contain the substantive concepts. Given the weakening of these systems over time, a foundation in law would provide much better protection. The other Recommendations would either require changes to Parliamentary rules or procedures (as with the House of Commons, Secondary Legislation and Civil Service proposals) or would be entirely within the power of the Government to implement. More detail is set out in each Recommendation.

Conclusion

24. The governance and standards issues in the UK are clear, apparent and important to the public, and seem likely to play a role in the general election in 2024 and beyond. Much wider thinking has been done about these problems, as evidenced in the high-quality analyses and proposals which are referenced in relation to each Recommendation in the additional, background material for each Recommendation which is available on the website for the Commission (<https://www.ukgovernanceproject.co.uk>), or listed in the bibliography (also provided on the Commission website), and in the wide-ranging discussions that the Commission has had with a large group of experienced and expert individuals.

25. The members of the Commission have brought their own experiences and expertise to bear on the creation of a package of Recommendations which would we believe, if implemented, constitute a significant step towards resolving the problems identified. Those Recommendations are summarised below and then set out in detail.
26. Comments on these proposals, whether from press, the public, academic or other interested parties would be welcome directly to the Commission by email (contact@ukgovernanceproject.co.uk).

The Right Honourable Dominic Grieve KC (chair)

The Right Honourable Dame Margaret Hodge DBE MP

Professor David Howarth

Sir Jonathan Jones KCB KC (Hon)

Helen MacNamara CB

Professor Anand Menon

The Right Honourable Lord Neuberger of Abbotsbury

The Right Honourable Baroness Prashar CBE

SUMMARY OF RECOMMENDATIONS

- S.1. The Recommendations reflect the principles and methodology set out in Annex 4. Certain additional, background material for each Recommendation is available on the website for the Commission (<https://www.ukgovernanceproject.co.uk>). They are focussed on making material improvements in the existing system which are relatively easy and quick to implement. They are focussed on four general themes.
- a. Restoring high standards of integrity in public office: our aim is to heighten public confidence in the perceived and actual behaviour of those, elected or unelected, exercising power in the UK, providing clarity of expectations and a stronger and more supportive structure for integrity in public office together with effective and independent investigation and enforcement (Recommendations 1-6).
 - b. Reinforcing the role of Parliament: we seek to improve the standard of national debate and the quality of legislation, by strengthening Parliament's powers as regards (i) transparency and accountability of executive action; (ii) ensuring adequate debate on matters of public importance; and (iii) the effective scrutiny of legislation, both primary and secondary. This will bring substantial benefits to any Government and to the public in the form of better decisions and legislation and enhanced democratic legitimacy (Recommendations 7 and 8).
 - c. Better working between Ministers and Civil Servants: we have made specific proposals to contribute to re-establishing the reputation of the Civil Service as the world's most highly regarded Civil Service, providing a better SpAd framework and increasing the quality and effectiveness of internal processes and relationships. We have also concluded that a Royal Commission should establish, following more detailed analysis, inter alia what the roles, capabilities and responsibilities of the Civil Service should be and whether it should be put on a statutory basis (Recommendations 9 and 10).
 - d. Protecting our democracy: we propose enhancing the role of the Electoral Commission (EC) as an effective watchdog on our electoral democracy, through an increase in the responsibilities, powers, effectiveness and independence of the EC (Recommendation 11).

Recommendation 1: Ministerial Standards and the Ministerial Code

S.2. The main elements of this Recommendation are as follows.

- a. The Ministerial Code should be clarified and the integrity and ethics parts put on a statutory footing. It should set out the core responsibilities of Ministers, including duties to act in the national interest and to uphold the rule of law; to act with professional integrity; to account properly and truthfully to Parliament; to avoid conflicts of interest between their public role and private interests; to uphold the political impartiality of the Civil Service; and to ensure the proper use of Government and public resources.
- b. On taking office, Ministers should take an oath to uphold the Code.
- c. There should be an independent Commissioner (Code Commissioner) with statutory powers to investigate possible breaches of the Code, including on their own initiative, and publish their findings. Final decisions on sanction would be taken by the Prime Minister, who would be required to publish reasons for departing from any recommendation of the Commissioner.
- d. Other areas currently covered by the Ministerial Code – on the expectations of Ministers as members of Government/Cabinet, on the operation of Ministerial Private Offices, and the role of special advisers – should be set out in new manuals or guidance documents, overseen by the Prime Minister and the Cabinet Office, which should be made public.

Recommendation 2: Conflicts of Interest

S.3. The main elements of this Recommendation are as follows.

- a. The Code Commissioner, with investigation powers, would oversee and maintain a register of potential conflicts of interests for Ministers and SpAds, with the Civil Service Commission playing this role for Civil Servants. Reporting requirements would be aligned with those for MPs but strengthened to reflect the roles of SpAds and senior Civil Servants (Relevant Officials) and of Ministers.
- b. The Code Commissioner and the existing Parliamentary Commissioners monitoring conflicts of interest for MPs and Peers (whose roles would not change) should share resources and liaise on consistency.
- c. A Commissioner should have the ability to agree flexible conflict resolution processes (and transparency arrangements) with a conflicted individual to provide appropriate protection for that person and decision processes.
- d. There would be material sanctions for breach (including dismissal). The Prime Minister would retain the ultimate power to determine sanctions on Ministers for breach of the conflict rules but any deviation from the Code Commissioner’s proposal on sanctions should be published with an explanation.
- e. The thresholds for disclosure of assets or debt should, so far as practicable, be common across MPs and Peers. Once a threshold is passed for disclosure of an interest, the disclosure should be of that fact, and not of the actual level of assets, or debt.

Recommendation 3: House of Lords Appointments Commission (HOLAC)

S.4. The main elements of this Recommendation are as follows.

- a. HOLAC should be put on a statutory footing as a wholly independent body. The Chair of HOLAC should report to Parliament periodically.
- b. HOLAC would have the exclusive power to make decisions on which individuals could be recommended by the Prime Minister to the Monarch for appointment as life peers. It would apply statutory criteria based on the “people’s peers” standards as to the calibre and suitability of candidates, covering personal integrity, achievements and skills, and the willingness and ability to contribute substantively to the work of the House of Lords.
- c. The Prime Minister could not recommend anyone to the Monarch for a peerage unless they had been approved by HOLAC. That would include candidates put forward by the Prime Minister himself/herself (including those proposed as Ministers), by leaders of opposition parties, or by members of the public.
- d. A citation would be published for everyone appointed to the Lords, explaining how they met the criteria for appointment.

Recommendation 4: Advisory Committee on Business Appointments (ACoBA)

S.5. The main elements of this Recommendation are as follows.

- a. ACoBA should be given full independence through primary legislation, with its primary focus being to maintain and enforce the Business Appointments Rules (BARs), with appropriate powers to investigate and take enforcement action.
- b. ACoBA should have the power to make changes to the BARs after consultation with the Cabinet Secretary, the Civil Service Commission and such other persons as the Chair determines, having regard to the need to maintain public confidence in the regulation of movements between the public and the private sector as well as to the advantages of such exchanges to the efficient and orderly functioning of the British state and the need to be fair to individuals seeking to make such movements.

- c. The Chair of ACoBA should make regular reports, and be accountable, to Parliament and shall maintain and where practicable enhance its existing levels of transparency as to its decisions and operation.

Recommendation 5: Political Honours

S.6. The main elements of this Recommendation are as follows.

- a. Prime Ministers would no longer make personal recommendations for honours. All nominations (from the Prime Minister or another source) would go to the Independent Committees. The Main Committee would have ultimate powers to approve or reject. No 10 would not be able to influence the outcomes of the Honours process.
- b. The State and Political Honours Committees should be merged to create a new, central and Independent Committee, with an independent Chair, which would provide greater scrutiny of nominations from political parties and the Civil Service.
- c. Political honours should go through the same process as for other nominations, requiring evidence of public service beyond the usual role
- d. The principles governing the honours system, and the criteria for a nomination to be approved, should be explicitly stated and published.

Recommendation 6: Standards and Professional Development for Ethics and Conduct

S.7. The main elements of this Recommendation are as follows.

- a. A definitive guide to standards in public life should be commissioned, to which public bodies and individuals in public life are subject, fully incorporating the Nolan Principles.
- b. There should be high quality and mandatory training on those standards, for MPs, Peers, SpAds and other senior officials and with sanctions for failure to attend where practicable.

Recommendation 7: House of Commons

S.8. The main elements of this Recommendation are as follows.

- a. Approval of Government business should be by means of a substantive motion moved by the Leader of the House.
- b. Select committees should have allocated available time on the floor of the House and be able to move substantive motions on their reports.
- c. The Speaker should have the power to allow a 90 minute debate on a motion to vary any Standing Order(s) if requested by the leaders of major parties, the backbench business committee, the procedure select committee or 300 MPs. Emergency debates should be given more prominence and the House allowed to debate substantive motions.
- d. The scope of a humble address should be clarified to prevent abuse.
- e. Select committees should have, under Standing Orders, an appropriate capability to summon Ministers, civil servants and SpAds, and to request documents with those individuals having personal duties (under their codes or employment contracts) to respond to reasonable requests.
- f. MPs should (i) choose the period of an adjournment and (ii) have the power (in addition to the Government) to cause a recall. Parliament should not be prorogued or dissolved without approval from the Commons through a resolution.

Recommendation 8: Secondary Legislation

S.9. The main elements of this Recommendation are as follows.

- a. The Government and Parliament should agree a (public) Memorandum of Understanding (MoU) setting out limits and principles on the use of secondary legislation (statutory instruments) – covering both the scope and nature of powers contained in Bills, and the use of those powers when enacted. On the introduction of every Bill, the Government would be required to make a statement setting out how it met the requirements of the MoU – or give a full explanation for why (exceptionally) it did not. Delegated legislation should not be used for laws of principle and policy or to reduce civil liberties but, rather, for regulation of administrative procedures and related detailed operational matters.
- b. The MoU would exclude the use of “skeleton Bills” (leaving large areas of policy to be set out in secondary legislation), “Henry VIII” powers (powers to amend primary legislation) and “sub-delegation” powers other than in exceptional circumstances and, if then, subject to Parliamentary controls.
- c. The procedures of both the House of Commons and House of Lords should be amended to ensure better scrutiny of secondary legislation, including giving the opportunity for MPs to express concerns about, or suggest changes to, particular instruments; for select committees to consider the policy merits of instruments; and for the Lords to delay the approval of affirmative instruments in certain circumstances.
- d. The Government should ensure that all secondary legislation and related explanatory material is readily accessible by the public with clear language and explanations, and that there is clarity over the use of “quasi-legislation” such as codes and guidance.

Recommendation 9: The Civil Service and its relationship with Ministers

S.10. The main elements of this Recommendation are as follows.

- a. The Constitutional Reform and Governance Act 2010 (CRA) should be amended so that ministers cannot direct civil servants to act in contradiction of the Civil Service code.
- b. The role and accountability of the departmental permanent secretary should be restored and enhanced, including being accountable to Parliament annually for the operation of their department as regards: the veracity of statements made by or on behalf of their department; FOIs; the keeping of public records of decision-making; public appointments; and use of public money. Permanent secretaries should no longer operate on five year fixed term contracts but subject to standards of performance and delivery.
- c. Models used for policy development should generally be made public/available to Parliament including the data sources used.
- d. Ministerial Directions should be recorded and provided to the NAO, the Liaison Committee and the relevant Select Committee.
- e. The Prime Minister should set clear objectives for each department. These should be public. The cabinet secretary is responsible for making sure these policy objectives are achievable and each permanent secretary is accountable to parliament for the implementation of these policy objectives.
- f. The Civil Service Commission should report annually on the state of the Civil Service with recommendations for improvement. It should be responsible for investigating alleged breaches of the Civil Service Code. It should have a confidential ethics hotline for advice and so that a formal complaint is not the only outcome. There should be an appropriately-sized support staff. It would continue its role of proposing Civil Service appointments but expressly on a politically neutral basis and with the aim of enhancing diversity.

- g. Critically, a Royal Commission should be formed to establish what the roles, capabilities and responsibilities of the Civil Service should be and whether it should be put on a statutory basis. It should also examine whether the Civil Service should have a role as a check or second opinion on the powers wielded by an administration.

Recommendation 10: Role and Appointment of Special Advisors (SpAds)

S.11. The main elements of this Recommendation are as follows.

- a. The ministerial and special adviser codes should be specific about different SpAd functions such as communications and policy, with accountability and chain of command made clear. Secretaries of state should have a Ministerial Code responsibility for ensuring their SpAds follow the SpAd Code (including avoidance of conflicts of interests).
- b. A rigorous limit should be applied to the number of SpAds in Government as a whole. The current theoretical limit of two SpAds per Minister should be retained but aggregated and allocated across departments at the discretion of the Prime Minister. Junior ministers should not have SpAds.
- c. All SpAds should have (i) relevant training (including on ethics and conflicts); (ii) the same basic employment rights akin to those of temporary workers within the Civil Service; and (iii) proper line management, grading and pastoral care from an identified individual within No 10.
- d. SpAds should not be allowed to hold any employment in a political party or to stand as candidates for any elected role alongside their Government role.

Recommendation 11: The Electoral Commission (EC)

S.12. The main elements of this Recommendation are as follows.

- a. Statute should set out a properly independent role for the EC as the guardian of our electoral democracy chaired by an independently selected individual who would be a recently retired High Court judge or equivalent. The legal provisions which provide for a Strategy and Policy Statement from the Government should be repealed.
- b. Electoral law should be simplified and consolidated (not modified) to be easily accessible in one place.
- c. Voters should have online access to verify their voting status.
- d. Section 19 of the 2022 Elections Act should be repealed to allow the EC to be able to undertake or direct criminal proceedings under the Representation of the People Act(s) as well as the Political Parties and Referendums Act 2000, and the EC should have investigatory powers akin to those of the National Crime Agency and access to resources to operate them.
- e. The maximum fine for electoral finance breaches should be raised to £500,000 per offence, or 4% of total campaign spend, whichever is larger.
- f. Unincorporated associations should be required to declare the source of their funding when they make donations to a political party, whatever the level of those donations.
- g. EC should also have the power to make anti-avoidance rules.
- h. The EC should publish a report every five years to Parliament on the quality of democracy in the UK including recommendations to the Government for improvement.