GOVERNANCE PROJECT

The Joseph Rowntree Reform Trust and the Cobalt Trust have supported this work in recognition of the importance of the issues. The facts presented and the views expressed in this report are, however, those of the Commissioners and not necessarily those of the Reform Trust (www.jrrt.org.uk) or the Cobalt Trust.

CONTENTS

Our website (https://www.ukgovernanceproject.co.uk) summarises background material relating to the Recommendations and the reports, analyses, and a bibliography of other material that the Commission found particularly helpful in its deliberations.

FOREWORD

Current opinion polling shows with stark clarity the extent to which public confidence in our democratic processes is at a low point. Unless this issue is addressed, the risk exists of the public progressively turning away from them and placing their faith in alternatives that are incompatible with the maintenance of our freedoms. It is our shared concern about this that has brought this Commission together.

We are, however, blessed in our country in having long standing institutions that provide a solid bedrock on which parliamentary democracy has thrived and can thrive. In carrying out this review and coming up with our recommendations, this Commission believes that much can be done to restore public confidence by relatively small changes, that are easily deliverable. If implemented, they are also capable of improving Government and making the work of Ministers, Parliamentarians and Civil Servants easier, by providing a sounder framework of ethics and standards within which politics and Government are conducted. This, of course, does not preclude other possibilities of greater constitutional change in future, which are a legitimate subject of debate. But we have chosen here to focus on how existing principles and structures of governance can be improved rather than look to other solutions. If our proposed reforms were to be implemented, then we also think that any debate on further change could be conducted under much better conditions as a result.

We are very grateful to the many who are serving or have served in public life who have helped us with this work. We have also freely used of the expertise and previous work of others in this field who we acknowledge. This report would, of course, not have been produced without the assistance of a dedicated team to help with research and drafting. We wish to thank Oussama El Fatihi, Tom Fieldhouse and Sophie Stowers for their work, along with Andrew McClean who, as Director, has driven forward this project and made it possible. As its promoter, Paul Lomas has also made an important contribution throughout. We have been most fortunate to have the financial support of the Joseph Rowntree Reform Trust and the Cobalt Trust.

As a Commission, we have been encouraged by the fact that, drawn as we are from a variety of backgrounds, we have found ourselves in agreement on what can and should be done. Similarly, we have found that, regardless of political affiliation or lack of it, many of the interlocutors with whom we have engaged are of a like mind. We believe that a great opportunity now exists to achieve positive change if there is the will to do it.

Rt Hon Dominic Grieve KC

Chair

1 February 2024

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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 (CRAG) 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.

THE RECOMMENDATIONS

Theme 1: Ethics and Conduct in Public Life

1

Ministerial standards of conduct and the Ministerial Code

R.1.1. Issues of ministerial conduct have been particularly prevalent in recent years. The response to allegations of wrong-doing has sometimes generated as much controversy as the allegations themselves. Polling and related research has shown that public trust has reduced as individuals and systems have failed to respond effectively to these challenges. This has been compounded by an unclear Ministerial Code, lack of understanding about the obligations that apply, and the fact that the system of monitoring and enforcement is controlled by the very people it is meant to hold to account.

R.1.2. The Commission seeks to clarify the standards and improve the effectiveness and independence of monitoring and enforcement mechanisms while preserving the constitutional position that the Prime Minister retains the final say. This should lead to better behaviours and improve public trust in ministerial conduct.

R.1.3. There is broad consensus that (i) the Ministerial Code should be put on a statutory basis, clarified, and strengthened, and (ii) that the Independent Adviser should have greater powers of oversight and enforcement, and a much greater degree of independence.

R.1.4. The Code has become unwieldy over time as more has been added to it. The current Code covers many administrative aspects of the conduct and operation of Cabinet Government alongside Ministerial private office and travel arrangements as well as core ethical and behavioural topics. It would be unhelpful and unnecessary to give the whole document as it stands a statutory underpinning. Moreover, the current Code is drafted ambiguously, leading to strained interpretation by those seeking to make an argument one way or another. Additionally, insufficient attention has been given to the treatment of financial interests where there is a lack of clarity and transparency about what is acceptable.

R.1.5. The spirit and intent of this Recommendation is to affirm the privilege and significance of holding office as a Minister of the Crown, to recognise the very high standards of conduct upheld by the vast majority of those holding such offices and to make changes to the current regime that are likely to increase public confidence that this is and will remain the case.

We recommend that:

The Ministerial Code should be significantly revised and clarified

R.1.6. The Ministerial Code should be clarified and simplified to instil a refreshed understanding of the duties and responsibilities that come with Ministerial office. These parts of the Code should be split from the Government and administrative parts and given a statutory underpinning.

R.1.7. These current parts of the Ministerial Code (i) relating to the Ministers' relationships with Government and (ii) other, more administrative aspects of obligations on Ministers should be the subject of separate and clearer guidance on expectations on Ministers which would include guidance and clarity on rules for the operation of Private Offices and special advisers. These should be made public.

R.1.8. The Statute would not prescribe the revised Code itself but would specify the topics that it would cover which would encapsulate the core responsibilities of a Minister of the Crown. The precise terms (and supporting Guidance) would be determined by the Prime Minister having consulted with the Code Commissioner. Our recommendation is that the core elements for this revised Code should be as follows:

a. Ministers have a duty to act in the national interest and to protect and enhance the reputation of the United Kingdom.

b. They should behave with professional integrity, treat others with consideration and respect, and follow the Nolan Principles of public life.

c. They have a duty to account to Parliament, not to mislead Parliament and to be transparent with Parliament and the public about their decision making.

d. They have a duty to ensure that Civil Servants interacting with Parliament on their behalf do so fully, truthfully and accurately in accordance with the Civil Service Code.

e. They have a duty to ensure that SpAds reporting to them observe the SpAd Code;

f. They should uphold the political impartiality of the Civil Service and support the effective operation of the Civil Service and the Civil Service Commission.

g. There should be no actual or perceived conflict between Ministers' public duties and their private interests (and they should observe the Conflicts of Interest rules that we recommend in Recommendation 2).

h. They should act with independence and impartiality (e.g., no special treatment to personal interests or that of connections, no acceptance of gifts that may be seen to compromise judgment or independence).

i. They should ensure the proper use of Government and public resources (e.g., not for party political purposes).

j. They should observe the law and uphold the rule of law, the administration of justice and the independence of the judiciary.

R.1.9. On taking office, Ministers should be asked to swear an oath or affirmation to confirm that they understand and will abide by the Code. This oath would also be an opportunity to underline the Minister's broader duties to use their office to maintain and improve the security of the country and the prosperity of those who live and work here and to uphold the rule of law and the constitutional settlement of the UK.

A Ministerial Code Commissioner should be appointed, with statutory enforcement powers

R.1.10. The statute should provide for a fully independent, properly resourced enforcer of the relevant elements of the Code (the Ministerial Code Commissioner) with powers to initiate and conduct investigations, make findings about failures to meet the standards set by the statutory Code, and to recommend sanctions.

R.1.11. The final decision on sanctions would still rest with the Prime Minister but they would have to publish the decision and to justify publicly any departure from the Commissioner's recommendation.

R.1.12. The Commissioner should be jointly appointed by the Prime Minister and the Chairman of the Public Administration and Constitutional Affairs Committee (PACAC).

R.1.13. The role of the Commissioner would be to receive complaints about breaches of the Code (which could be made by any person) and to decide whether to commence investigations (whether or not on receipt of a complaint, without requiring the PM's consent and irrespective of whether the individual(s) the subject of the investigation continued to occupy any particular office or post) and whether to make public the existence and/or the findings of any investigation. The Commissioner would have the discretion to decide not to investigate any complaint which they regard as frivolous or vexatious, or any alleged breach which they regard minor in nature.

R.1.14. To create public confidence, the Commissioner should be as transparent as possible about their work. They should publish an annual report including confirmation that they have had the resources, access and information necessary to fulfil their role, including reporting on compliance with requests for information (for example access to relevant phone and email records). The Commissioner should make periodic reports to parliament, and account to and appear before PACAC as required.

R.1.15. As set out in Recommendation 2, duties relating to financial interests and conflicts of interest for Ministers would be within the jurisdiction of the Commissioner who would have the power to make changes to those rules. The Commissioner would also have this power and jurisdiction in relation to conflicts of interest for special advisers.

R.1.16. There should be appropriate quality training for Ministers on taking office which would include: (i) the role and duties of the Civil Service; and (ii) the relationship between the Civil Service and Parliament (including how the two Houses of Parliament operate).

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk)

2
Conflicts of Interest

R.2.1. It is critical, in a good governance system that commands public confidence, that conflicts of interest (which are natural and inevitable) are properly and effectively managed in a way that balances the legitimate privacy interests of the individuals (and limits the prospects for abuse of disclosures) with the need to ensure that decision-making operates in the national, rather than the private, interest.

R.2.2. It is particularly important that this is seen, and believed, to be done even when, as appears to be the case, actual examples of UK decision making being skewed by private interest are limited. The lack of confidence is, itself, corrosive and undermines trust in Government.

R.2.3. Extensive processes (administered by the Parliamentary Commissioner for Standards and the House of Lords Commissioners for Standards (the Parliamentary Commissioners)) already exist for MPs and Peers, covering disclosure of sources of income or funding, employment, lobbying etc. The Recommendation does not seek to interfere with those established processes although it does offer some limited specific suggestions for their development and suggests an enhanced degree of coordination with the Code Commissioner. Rather, this Recommendation focusses on Ministers and Relevant Officials (as defined in Paragraph (R.2.27 below) in relation to their executive (rather than legislative) roles which carry higher levels of conflict risk than the position of an individual legislator.

R.2.4. It would not be realistic or reasonable to eliminate all interests that officials might have outside public life. Good conflict management requires: (i) an effective system of disclosure based on clear criteria with sanctions; (ii) support on close judgement calls on disclosure or behaviour; and (iii) behavioural measures where disclosure does not, in itself, resolve the conflict and further steps are needed. This requires confidential, skilled and trusted intervention.

R.2.5. This Recommendation does not address whether "second jobs" for MPs should be permitted (a wider political issue). Similarly, this Recommendation does not address the complex issue of lobbying which has been considered extensively elsewhere (not least in the recent work of Sir Nigel Boardman).

We recommend that:

A coherent and independent system be established for conflict management

R.2.6. There must be a coherent, and consistent, system for Ministers and Relevant Officials to declare potential conflicts of interest; this should be enshrined in the Ministerial Code (which currently contains minimal provisions), the SpAd Code and the Civil Service Code.

R.2.7. There must be clear accountability for administering conflicts which should be vested in the Code Commissioner (for Ministers and SpAds) and the CSC for civil servants (with the Parliamentary Commissioners maintaining their current responsibilities) – collectively referred to as the Commissioners in this Recommendation. All Commissioners would be able, and in some cases be obliged, to hold information in confidence.

R.2.8. As regards Relevant Officials:

a. they should have basic disclosure obligations reflecting those for MPs;

b. they should be responsible for making full and frank proactive disclosure of interests (seeking guidance where necessary), updating for changes promptly;

c. it would be the responsibility of the Code Commissioner/CSC to maintain an accurate register, transparent to the Relevant Official but otherwise confidential, and to clarify any areas of doubt with the Relevant Official; and

d. the Code Commissioner/CSC would then consider whether:

i. (exceptionally) any public disclosures were necessary by a Relevant Official; and

ii. any measures were necessary for the management of any conflict of interest in accordance with paragraph R.2.22 below.

R.2.9. The Commissioners should issue (i) regular general public guidance on the interpretation and application of the disclosure rules and (ii) confidential, case specific, guidance on whether any dispensation from public disclosure would be appropriate in particular circumstances supported by private disclosure to them and case specific conflict management measures to resolve a conflict in exceptional cases.

R.2.10. Where an individual legislator has relationships (including professional relationships, e.g. clients for practising lawyers) which impose confidentiality obligations, their arrangements with the counterparties to those relationships must make it clear that, as a concomitant for having the relationship with someone who is a legislator, they need to consent to that relationship being disclosed, in confidence, to the relevant Commissioner. The Commissioner would not publish, or require the publication of, aspects of that relationship that were confidential but would prescribe processes that reflected the appropriate management of the conflict and respected the confidentiality.

R.2.11. The Code and Parliamentary Commissioners and the CSC should be supported by a common resource structure, including the ability to store data confidentially, administer disclosure registers, conduct investigations (with internal processes to respect Parliamentary Privilege where appropriate). That common resource structure would permit coordination between the Commissioners to ensure consistency in approach and the common identification of any emerging issues. The Commissioners would be responsible for keeping the disclosure requirements under review and adjusting them to reflect experience, inflation, examples of evasion etc.

R.2.12. The Commissioners must record (but not necessarily publish) the arrangements made and directions given for resolving any conflict of interest. A copy of this record shall be made available to the person to whom it relates. This would enable the individual to demonstrate, if necessary, that (s)he has done all required of them to enable a specific conflict to be appropriately identified and managed. The Commissioner concerned shall be responsible for monitoring compliance.

R.2.13. The Code Commissioner should be responsible for investigating any alleged breaches of disclosure or conflict of interest rules as a breach of the relevant Code and making a report to the appropriate authorities including a recommended sanction for any failure to comply with any requirements stipulated by the Commissioner in a decision as to the resolution of any conflict. The final decision on sanction of any Minister, as with other breaches of the Ministerial Code, would rest with the Prime Minister, who would need to justify publicly any departure from the Ministerial Commissioner's recommendation. Sanctions for Relevant Officials would reflect the procedures in their respective codes.

R.2.14. The disclosures for individual Members of the House of Commons and of the House of Lords should be as regards the assets (or interests) in which they are beneficially interested, including held by nominees, but should not extend to family members beyond their spouses. We think this is a sufficient standard for legislators, on a risk-adjusted basis.

R.2.15. As regards financial assets:

a. it shall be sufficient to disclose the existence of assets above the applicable threshold, without a requirement to specify the actual value of the assets. This is in order to limit invasion of privacy to what is needed to disclose the conflict of interest: any asset holding above the applicable threshold creates the potential for conflict, irrespective of whether the excess above the threshold is material or not;

b. in relation to assets which are difficult to value, including illiquid assets, disclosure shall be required if there is a material risk that a valuation would be above the applicable threshold; in case of any uncertainty in this respect the individual owner of the asset in question should consult with the relevant Commissioner;

c. to be comprehensive, an interest should include all forms of beneficial interest and debt obligations as well as assets; and

d. MPs and Peers would be free to make further voluntary disclosure into the system if they so wished.

R.2.16. Respecting the separate jurisdictions of each House, it seems unattractive that a legislator in one House should be subject to different disclosure rules from a legislator in the other House. The current systems are closely aligned but it would support public confidence if they were converged as much as possible (a particular example in that respect is the disclosure of shareholdings, which are currently at materially different levels).

R.2.17. Moreover, it is recommended that, subject to some analysis as to the exact level, the threshold is substantially reduced. The current levels will seem high to most voters. The Commission's thinking in proposing a lower level is based mainly on the following three considerations:

a. lower levels seem likely to command wider public respect (and reduce the chance of individuals being subject to public criticism for not making disclosure at a value which will seem high to many members of the public);

b. lower levels seem unlikely to trigger materially higher volumes of disclosure (but this can be tested as part of the process of evaluating the proposal for a reduced threshold and setting that threshold); and

c. by applying the principle as described above (that only the fact of the threshold being passed is disclosed, and not by how much) and applying this disclosure at a relatively low level, the privacy of parliamentarians is preserved to a substantial degree by taking the prurient public interest out of it and making the position routine.

R.2.18. The Commissioners should implement anti-avoidance measures should it appear that aspects of the disclosure requirements, are subject to abuse (classically, warehousing assets in a nominee). Disclosure should expressly be required on a good faith basis (in the context of preventing any appearance of conflict of interest) without any resort to avoidance techniques.

R.2.19. The Code Commissioner should be accountable to the Public Administration and Constitutional Affairs Committee for the role described in this Recommendation in relation to Conflicts of Interest.

Additional duties should apply to Ministers and Relevant Officials

R.2.20. Ministers and Relevant Officials should be subject to additional responsibilities to disclose to the Code Commissioner in the following areas (with the precise details to be developed by the Code Commissioner):

a. interests relevant to procurement (e.g., relationships, or potential future relationships after leaving office (of any kind), with companies that may bid for work or sales) or serious discussions about future employment generally;

b. material personal relationships with individuals that engage with public institutions (e.g., journalists, public officials, parliamentarians etc.); and

c. any similar financial interests to those required under current House of Commons rules which are more widely held but which could still be thought materially to influence conduct (e.g. by their parents, siblings, or children).

R.2.21. The Code Commissioner should, promptly and in any event within one month of receiving the corresponding declaration, publish those interests of a Minister which (s)he has determined to be sufficiently relevant to the role performed by that Minister, and which it is appropriate to publish, taking account of the nature of the conflict and the likely effectiveness of any conflict management measures.

R.2.22. Ministers and Relevant Officials must cooperate with the Code Commissioner to ensure that any continuing (or perceived) conflicts of interest are resolved or managed. This may include

adopting any one of the following measures, as may be directed by the Code Commissioner, in relation to any relevant interest:

a. divestment of the interest (with capital gains tax relief, if necessary);

b. use of a Blind Trust (as defined below) in order to remove relevant assets from the control or knowledge of the individual;

c. recusal from involvement in a given affected decision-making process;

d. restriction of access to particular information;

e. re-arrangement of duties and responsibilities;

f. resignation from the conflicting private-capacity function; and/or

g. subject to consultation by the Code Commissioner with the Prime Minister for Ministers and SpAds, and the Civil Service Commission for Civil Servants, and a joint determination that no other course is reasonably available in relation to the relevant interest, resignation from the particular office (i.e. in cases where the conflict is not reasonably manageable).

R.2.23. Ministers and Relevant Officials must promptly inform the Code Commissioner of any steps they are taking (while in office) to obtain future interests (such as those listed in the MP disclosure rules) or for their employment (if outside Government service) after leaving office (in the case of Ministers) or (for Relevant Officials) the role that they currently hold. These conflicts shall be managed and resolved in accordance with the preceding paragraph.

R.2.24. The Cabinet Secretary and Permanent Secretaries shall cooperate with the Code Commissioner (who shall in turn consult with them) in relation to:

a) what amounts to a conflict or potential conflict in relation to the likely activities that the role concerned will involve and where these conflicts can be identified; and

b) development of monitoring mechanisms to detect emerging issues or potential breaches of the rules.

R.2.25. So far as the positions of the Cabinet Secretary and Permanent Secretaries are concerned, the Code Commissioner shall consult with the Minister concerned and the First Civil Service Commissioner.

R.2.26. There must be substantial consequences for any failure on the part of any Minister or Relevant Official to comply with conflict-of-interest measures prescribed by the Code Commissioner, irrespective of whether it can be shown that the conflict actually affected any given outcome: the fact of a conflict is a sufficient issue. These should include:

a. proportional disciplinary sanctions (which may include private reprimand in case of a technical and non-substantive breach, through public apology and change of role or scope of responsibility or, ultimately, for egregious failings, dismissal); and

b. measures to prevent and disincentivise benefitting (directly or indirectly) from a breach. This should not include any retroactive cancellation of affected decisions unless this can be achieved without any material adverse impact on innocent third parties.

R.2.27. Relevant Officials include those holding the following roles:

a. Cabinet Secretary;

b. Permanent Secretary;

c. Director General;

d. special adviser;

e. any other Civil Servant of whatever seniority who is playing a material role in relation to public procurement, as determined in the case of any uncertainty by the Code Commissioner in consultation with the relevant Permanent Secretary and/or as the case may be the Cabinet Secretary; and

f. those determined by the Code Commissioner to be Relevant Officials because they have analogous powers and responsibilities by virtue of their appointment as a "Tsar" (or equivalent) in relation to a given area.

R.2.28. Ministers' disclosure under the above procedures should also be disclosed on their relevant Parliamentary register.

The use of Blind Trusts should be regulated consistently

R.2.29. There should be greater consistency and detail in the House of Commons rules on blind trusts and the same rules should apply to MPs, Peers, Ministers and Relevant Officials.

R.2.30. Any trust or comparable arrangement in relation to which the requirements specified in the following paragraphs have been satisfied (a "Blind Trust"), shall be disregarded in relation to the disclosure or other obligations of any beneficiary in relation to the assets held by the trust. Similarly, any assets held within a Blind Trust shall be disregarded in assessing the disclosure or other conflict management obligations of any Minister or Relevant Official who is a beneficiary of such Blind Trust.

a. The instructions to the Trustee/Managers in relation to any Blind Trust must not stipulate an investment strategy which requires a focus on any specific assets or industries and must offer no opportunity for any of the interests in the Blind Trust to be reasonably discoverable by, or known to, the individual subject to the conflict of interest rules (directly or indirectly).

b. In relation to any Blind Trust which is being relied on to justify a derogation from the usual disclosure or other conflict management measures, the individual should supply the Commissioner with the following information:

i. the full list of interests transferred into the Blind Trust, which list shall be published on the relevant register, if and to the extent that (a) such interests if held outside the Blind Trust would be published; and (b) the Commissioner requires such publication;

ii. a copy of the instructions given to the Trustees/managers for its management;

iii. the list of beneficiaries; and

iv. the contact details for each trustee/manager.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

3

The House of Lords Appointments Commission

R.3.1. The question of appointments to the House of Lords is central to our constitution. Those appointed become members of the legislature for life, as well as receiving the dignity of a peerage. There is rightly therefore a focus on the calibre and suitability of those individuals.

R.3.2. Recent evidence shows widespread lack of public confidence in the system for approving and making such appointments, including the ability of the Prime Minister to override judgments of the House of Lords Appointments Commission (HOLAC), the apparent entitlement of outgoing Prime Ministers (however short their term of office) to make nominations, and the quality of some of those appointed.

R.3.3. The Commission therefore makes several recommendations to strengthen the system, provide independent scrutiny of those nominated for appointment to the Lords, ensure that those appointed are of appropriate calibre and suitability, remove the scope for political or personal favouritism, and thereby help restore public confidence.

R.3.4. Wider questions about the House of Lords, its existence and role, are outside the scope of this report.

We recommend that:

The House of Lords Appointments Commission (HOLAC) should be put on a statutory footing

R.3.5. HOLAC would be created as a new, independent, statutory body (to replace the existing non-statutory HOLAC). It would have power to make decisions on which individuals could be recommended by the Prime Minister to the Crown for appointment as life peers under the Life Peerages Act 1958.

R.3.6. The statute would make provision about the size and constitution of HOLAC to ensure its effectiveness, independence and accountability.

a. HOLAC should consist of nine members, including the chair, of which:
    i. at least four, including the chair, should be independent of any registered political party;
    ii. no person may be nominated who is a Minister of the Crown or holder of a national office in any registered political party; and
    iii. there should be political balance between those members who are politically affiliated.
b. Members should be appointed by the Crown for a non-renewable term of seven years unless removed by the Crown on an address by both Houses of Parliament.
c. HOLAC should determine its own rules and procedures.
d. HOLAC should have an adequate budget, staff and accommodation to ensure its ability to operate effectively and free from any external influence.
e. HOLAC should be given powers to obtain relevant information necessary for the performance of its functions.
f. The chair should be required to make periodic reports to parliament.
g. HOLAC could publish guidance on the conduct of its functions.

No person should be nominated for appointment to the House of Lords unless approved by HOLAC

R.3.7. The Prime Minister should not be permitted to recommend anyone to the Monarch for a peerage unless that person had been approved by HOLAC. This would apply to all categories of nomination, including:

a. nominations by the Prime Minister himself/herself (including of individuals that the Prime Minister wishes to appoint as Ministers);

b. nominations by outgoing or former Prime Ministers (if they are to continue);

c. nominations by leaders of opposition parties; and

d. nominations from members of the public or from HOLAC.

R.3.8. In deciding whether to approve a candidate, HOLAC would apply criteria set out in statute, namely:

a. as now, that the individual should be in good standing in the community in general and with the public regulatory authorities in particular; and that the past conduct of the nominee would not reasonably be regarded as bringing the House of Lords into disrepute; and

b. additionally, criteria akin to those currently applied by HOLAC for the appointment of non-Party Political Life Peers, as follows:

i. the ability to make an effective and significant contribution to the work of the House of Lords, not only in their areas of particular interest and special expertise, but the wide range of other issues coming before the House;

ii. a record of significant achievement within their chosen way of life that demonstrates a range of experience, skills and competencies;

iii. a willingness to commit the time necessary to make an effective contribution to the work of the House of Lords;

iv. an understanding of the constitutional framework, including the place of the House of Lords, and the skills and qualities needed to be an effective member of the House (including an ability to speak with independence and authority);

v. outstanding personal qualities, in particular, integrity and independence, and a strong and personal commitment to the principles and highest standards of public life;

vi. residence in the UK for tax purposes.

R.3.9. A requirement to be independent of any political party would continue to apply to non-party nominations but not (obviously) to political/party nominations.

R.3.10. There should be provision to amend or supplement the criteria above by statutory instrument, subject to approval by both Houses of Parliament.

R.3.11. Subject to prior approval by HOLAC as described above, the Prime Minister's constitutional role in making recommendations of peerages to the King would be preserved. The Prime Minister would retain the discretion ***not*** to recommend an individual for a peerage even if that person had been approved by HOLAC.

Transparency should be increased

R.3.12. For all appointments to the Lords, HOLAC would be required to publish a citation setting out the basis on which HOLAC had approved the individual as meeting the criteria for appointment.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

4

The Advisory Committee on Business Appointments

R.4.1. It is widely accepted that events over the past few years show that the Advisory Committee on Business Appointments (ACoBA) process requires revision.

R.4.2. There is real value both to individuals and to the efficient operation of the British economy and the British state, that there be clear and well-respected routes for individuals to move from the private to the public sector and vice versa. However, it is an important part of integrity in public office that the public has confidence in such moves, given the sensitive nature of the issues that arise. (The Commission notes that, even under the current, purely advisory, system, the vast majority of individuals subject to the Business Appointment Rules (the "BARs") comply fully with advisory rulings.)

R.4.3. In July 2023, the Government agreed to specific and limited reforms but did not place ACoBA on a statutory footing or make it fully independent. The impact of those reforms will not be clear for some time.

R.4.4. However, the Commission is sceptical (as are others) that they will be sufficient, in particular as regards the Government not committing to any enforcement process other than through the Cabinet Office. The Commission recommends faster and more ambitious action, through legislation, to ensure that ACoBA is properly independent and well-resourced, and has effective control of the processes and means of enforcement. Nevertheless, it would be prudent to make a brief further and final assessment of whether the Government's reforms, following the Government paper of July 2023, have been sufficient, before formally introducing the legislation.

We recommend that:

AcoBA should be placed on a fully indendent basis

R.4.5. Primary legislation (to embed the role and underline independence of resources and rigour on enforcement) should provide:

a. for the creation of ACoBA as a new statutory independent body taking over the constitution, role and membership of the existing ACoBA (save as amended pursuant to the Statute);

b. for ACoBA's statutory purpose to be to:

   i. administer the BARs including ruling on applications relating to ministers, the most senior civil servants and special advisers;

   ii. investigate potential breaches of the BARs;

   iii. take enforcement action in relation to breaches, which may include the withholding of severance payments otherwise due to the individual committing the breach; and

   iv. provide guidance on the BARs to any potential applicants.

c. for the terms of office for ACoBA's Chair, including:

   i. the appointments process; and

   ii. that the chair serve for a single non-renewable five-year term;

d. that ACoBA may determine its own rules and procedures, including the appointment and retention of independent support staff;

e. that the Chair of ACoBA shall make periodic reports to Parliament on the operation of ACoBA and the BARs, in the context of the statutory regime, and shall maintain, and where practicable enhance, its existing levels of transparency as to its decisions and operation;

f. for ACoBA to have a sufficient budget relative to its duties, an independent staff and an office; and

g. for ACoBA to 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 shall determine, 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 movements to the efficient and orderly functioning of the British state and the need to be fair to individuals seeking to make such movements.

R.4.6. The legislation could be either:

a. a new, freestanding statute ;

b. part of a larger statute on conduct, standards and/or constitutional reform; or

c. an amendment to an existing statute, e.g. the Constitutional Reform and Governance Act 2010.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

5
Political Honours

R.5.1. The current system for the awarding of political honours has been the centre of much controversy, potentially risking undermining credibility in the public eye and the value of the awards to recipients.

R.5.2. The Commission has focussed on the issues of governance presented by the current position, as opposed to wider issues of diversity (important though they are). It has focussed on: reducing the fact, risk and perception of politicisation – and hence of corruption; in particular, by removing the ability of the Prime Minister to make personal direct nominations; automaticity, particularly in the Civil Service when Civil Servants are well represented on the relevant committees (which is bad for public perception); the ability of the Prime Minister's office to participate in the process and influence individual decisions for reasons that do not reflect the merit of the candidate; and an increase in transparency when the current system for nominations and decisions is variously confidential or opaque.

R.5.3. That this Recommendation is intended to reduce the risk of abuse of power, improve the control environment and underpin the value of the honour for those receiving it under a more highly respected system.

We recommend that:

The Independent Committees should constitute an exclusive system

R.5.4. All honours must go through the system and processes of the Independent Committees, supported by the Honours and Appointments Secretariat, with ultimate powers to approve or reject given to the Main Committee.

Prime Ministerial Patronage should be limited

R.5.5. The custom of Prime Ministers making personal recommendations for Honours; either through specific resignation lists or outside the committee system and the normal Honours cycle, should cease. The grant of Privy Councillorships should not be used as a replacement for removing Prime Ministerial patronage over Honours.

R.5.6. The Prime Minister's office should not have special privileges or ability to intervene in operations of the Honours process. Representatives from No 10 Downing Street should play no part in the Honours Committees.

The Honours Committee structure and independence should be strengthened

R.5.7. The State and Political Committees would be merged to create a new, single, central and independent committee. That would provide for:

a. greater scrutiny of nominations from both the civil service and the political parties.

b. a better balance between the awards given for political and public service;

c. better control on total numbers; and

d. political honours going through the same process as for other nominations, requiring evidence of public service beyond the usual role.

R.5.8. That new committee would have an independent chair who would ensure that the same standard of nomination was being followed for anyone nominated for their political or public service.

Transparency should be increased

R.5.9. The principles governing the honours system should continue to be published but the detailed criteria for a nomination to be put forward for approval, should also be explicitly stated and hosted on the Government's dedicated website. There should be greater transparency about how the nomination process operates in order to enhance and maintain public confidence. Full information should be published about how the process of making honours recommendations is managed within Government departments and more data published about from where nominations originate.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

6

Upholding Standards and Professional Development for those in Public Life

R.6.1. The maintenance of appropriate standards of governance, conduct and support for core constitutional principles (such as the rule of law and the need for checks and balances) is vital for public trust and the continuing health of our democracy. However, there is widespread concern that those standards have fallen over recent years and that there is an insufficient understanding of principles and their importance.

R.6.2. Though many sectors of public life already deliver their own forms of induction and professional development, these often focus on 'practical' or 'commercial' skills, rather than the constitutional roles and responsibilities of those holding office. Such training as there is, in these areas, is also often not effectively mandatory. It is important that those holding public office are properly informed and educated about what their responsibilities are, and why upholding these standards matters for the proper functioning of the UK Constitution and the health of our democracy.

We recommend that:

Holders of public office should have an explicit duty to maintain appropriate standards of governance and conduct in office

R.6.3. Holders of public office should have a duty to maintain appropriate standards of governance and conduct in office. This encompasses: MPs, Peers, Ministers (in the requirements of that role) and senior officials, including directly appointed senior individuals (sometimes known as 'Tsars'). By extension, the duty could progressively be imposed for wider groups of individuals, including more junior officials and such others as those in local Government, senior police officers, and those (including some private organizations) with the authorisation to spend public money or discharge public functions, as felt appropriate.

R.6.4. These standards include the Nolan Principles and their detailed application in public life.

R.6.5. The duty to maintain these standards would not be statutory but would be reflected in the Ministerial, SpAd and Civil Service Codes and Parliamentary Standards guidance (and similar provisions if the process is progressively introduced) which would provide that they should be interpreted and applied in the light of the Nolan Principles.

Professional development on standards should be mandatory

R.6.6. Professional development, detailing the standards expected of those in public life, how those standards are enforced, and their importance, should be mandatory for MPs, Peers, Ministers and senior Officials (and, by extension, other groups, if the approach is rolled out further). Such development sessions would include both:

a. information about general standards in public life; and

b. a specific focus on the role, responsibilities and applicable principles for the position concerned.

R.6.7. The requirement to undertake such professional development should be included in the Parliamentary Code of Conduct for both the House of Commons and for the House of Lords and the Ministerial, SpAd and Civil Service Codes.

R.6.8. The exact form of these development sessions should be left to those responsible for regulating conduct for the role concerned to design and deliver. They should, however, ensure that sessions are effective and form an ongoing programme rather than being a one-off event.

R.6.9. Attendance at such sessions would not be statutory but should be contractually embedded so far as possible. Civil servants should be incentivised to demonstrate that they are upholding standards through their employment; including in relation to promotion and reward and performance reviews should include compliance with both training and the substantive principles.

R.6.10. Where practicable, sanctions should be imposed if individuals fail to participate in this professional development.

Authoritative guidance should be provided

R.6.11. A definitive guide setting out the standards that apply to those in public life (including, but not limited to, the Nolan Principles); which public bodies are subject to them; and a database of the training, sanctions, rules, and regulations governing the application of these standards across bodies, should be commissioned from the Committee on Standards in Public Live.

R.6.12. That guide should be made publicly available from a single, authoritative source. It should be easily accessible and available digitally.

Certain additional, background material Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

7

House of Commons and the Executive

R.7.1. The degree of Government control of the House of Commons' time and agenda impairs Parliament's ability to perform its basic legislative and democratic functions.

R.7.2. As a matter of constitutional principle, the House of Commons should be under the control of a Parliamentary majority, not of the Government that it is supposed to scrutinise. However, the practice is that all parliamentary time belongs to the Government. MPs routinely complain that they have insufficient say over the running of their own institution and significant tensions can occur between Ministers and Parliament. The ability of the House of Commons to pass a vote of no confidence in the Government is not an appropriate control or support for Parliamentary processes; a more productive and sensitive relationship, that offers better accountability and better legislation, is needed. Select Committees are widely considered to have been a valuable development improving the quality of Government but their powers are limited in some respects, restricting their impact.

R.7.3. This Recommendation seeks to adjust the balance between the House of Commons and the Executive, allowing the former better control of its own time and affairs. This is consistent with a healthy democracy and greater accountability.

We recommend that:

Parliamentary time should be under the control of the majority of MPs

R.7.4. Standing Order No. 14 should be amended to include a mechanism recognising the inherent right of the House of Commons to control and order its own business.

R.7.5. The weekly agenda of the House should be decided via a substantive motion moved by the Leader of the House. This should take place at the end of a 'Business Statement' delivered at a 'prime-time' (i.e., not a Thursday), when most MPs are in Westminster.

R.7.6. The Leader of the House must consult with the Opposition and minor Parties to determine how the following categories are allocated time:

a. Protected Government business, the content of which is to be decided by Ministers.

b. Protected House business (such as debates on Select Committee reports, general debates etc.). On these days, the Government should be entitled to go beyond the usual sitting times to secure its business that day if necessary.

c. Protected time for Opposition Days, Private Member Bills, and Backbench Business Days (which must each take place within a six-week cycle).

There should be greater alignment between Select Committees and business on the floor of the House

R.7.7. The power and influence of Emergency Debates under Standing Order No. 24 should be strengthened by formally recognizing the ability of the House to engage in Emergency Debates on substantive motions.

R.7.8. Each departmental Select Committee should be entitled to two 90-minute debates per Session to move a substantive motion based on the recommendations of a Select Committee Report. This would allow the House as a whole to consider the details of specific Government policy or conduct and express a collective view on it.

Select Committees' scrutiny functions should be enhanced

R.7.9. To facilitate the work of Select Committees and to enhance their ability to discharge their duty to scrutinise:

a. the House should update its Standing Orders:

i. to allow Ministers and (notwithstanding any conventions recorded in the Osmotherly Rules) Civil Servants (including SpAds) to be formally summoned before Select Committees; and

ii. Select Committees to have the power to request documents or records relevant to their enquiries, other than those for which an absolute exemption from disclosure is provided by Section 2(3) of the Freedom of Information Act 2000; and

b. the relevant Codes and employment contracts would contain provisions to ensure that Ministers, Civil Servants and SpAds must comply with reasonable witness summons or requests for documents relevant to the work of Select Committees.

The powers and privileges of the House of Commons to compel publication of documents must not be abused

R.7.10. Any motion containing a Humble Address requesting the disclosure of any information should, similarly, not require the production of material which is subject to an absolute exemption from disclosure under by section 2(3) of the Freedom of Information Act 2000 (unless the motion expressly indicates otherwise).

A clear and transparent procedure to consider the rules governing the House

R.7.11. The Speaker should have a discretion to grant a 90-minute debate on a motion to vary any Standing Order(s) if this is requested by:

a. the Leader of the Opposition;

b. the Leader of the Third Largest Party;

c. the Backbench Business Committee;

d. the Procedure Select Committee; or

e. at least 300 MPs.

R.7.12. Standing Orders may not be varied via an Opposition Day, Emergency Debate or Select Committee Report debate (unless it is sponsored by the Procedure Select Committee).

Parliament must decide the period of adjournment

R.7.13. Motions for periodic adjournment of the House of Commons under Standing Order No. 25 should not be taken without the possibility of amendment.

R.7.14. Motions for adjournment may not be moved (but may be tabled) prior to three sitting days before the proposed date of adjournment.

The power to request that the Speaker recall the House of Commons from an adjournment should not rest exclusively with Ministers

R.7.15. To ensure that the House can debate urgent issues:

a. Standing Order No. 13 should be amended to allow the Speaker to recall the House if this is requested by at least 250 MPs (10 of whom must be members of the governing party);

b. the Speaker should not have the discretion to refuse a request under subparagraph (a) above or a request made by a Minister of the Crown; and

c. the first item on the Order Paper following the House being recalled should be a Business of the House Motion moved by the Leader of the House.

The duration of the parliament and its sessions should be regulated by primary legislation

R.7.16. Primary legislation should establish the following principles:

a. Parliament should not be prorogued without the prior authorisation of a resolution of the House of Commons; and

b. the Prime Minister should not use his or her discretion to request, from the Monarch, a dissolution of Parliament without the prior authorisation of a resolution of the House of Commons.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

8

Secondary Legislation

R.8.1. There are deep and long-standing concerns about the excessive use of secondary legislation and the inability of Parliament to scrutinise it effectively.

R.8.2. Secondary (or delegated, or subordinate) legislation is law made under powers conferred by Act of Parliament – i.e. by primary legislation or statute, which, of course, has to be considered and formally enacted by Parliament. Secondary legislation typically consists of regulations made by Ministers in the form of a statutory instrument (SI), and, as explained below, such legislation, although it normally has to be "laid before" Parliament, hardly ever has any Parliamentary scrutiny or any Parliamentary input.

R.8.3. Secondary legislation generally comes in two forms. The great majority are Negative SIs, which are only (and therefore very, very rarely) considered by Parliament if an MP or Peer objects to them. Affirmative SIs require a Parliamentary vote to become law, but such a vote is almost always a formality.

R.8.4. Secondary legislation is an appropriate, indeed indispensable, form of law-making – for example to make detailed or technical provision where the use of primary legislation would not be a proportionate use of Parliamentary time; or to enable the law to be updated periodically (and uncontroversially) without needing a new Act each time.

R.8.5. However, secondary legislation has progressively come to be used much more extensively and inappropriately. For instance, it is now frequently used to make substantive policy provision, to create and extend criminal offences, to create or extend the powers of public bodies, and to affect the rights of individual citizens.

R.8.6. The most egregious forms of inappropriate use of secondary legislation are the increasing use of:

a. "skeleton" Bills, which do little more than set out a number of policy topics, leaving almost all of the substance to be implemented by Ministers in secondary legislation; and

b. "Henry VIII powers", which are powers for Ministers to amend primary legislation by secondary legislation.

R.8.7. Secondary legislation (typically between 1,500 and 3,000 SIs a year) receives little or no scrutiny by parliament. The great majority of SIs (including almost all those subject to the "negative" procedure) are not debated in parliament at all. SIs are almost never rejected by Parliament. (Only 17 out of 160,000 have been rejected in the last 65 years and 5 in the last 25 years, and the last time an affirmative SI was rejected was in 1978) Parliamentary committees (the Joint Committee on Statutory Instruments, and the House of Lords Secondary Legislation Scrutiny Committee) examine some of the technical aspects of SIs (e.g. drafting and use of powers), but there is almost no consideration of their policy content.

R.8.8. This is by no means simply a technical legal problem. It means that large numbers of important laws are made without any meaningful consideration whatever by MPs or Peers, which has major implications both for the quality of the law and the democratic legitimacy of the law. And the problem is getting worse as the SI process is being increasingly used as a means of inappropriately enacting substantive legislation, rather than for administrative purposes, which is what it should be used for.

R.8.9. The Commission therefore proposes processes:

a. to clarify and re-affirm the appropriate use of secondary legislation;

b. to enhance the scrutiny of secondary legislation by MPs and Peers and; thus

c. to enable proper Parliamentary consideration of the policy and technical merits of the law.

We recommend that:

There should be a Memorandum of Understanding to codify the proper use of secondary legislation

R.8.10. A Memorandum of Understanding (MoU), setting out agreed principles and limits on the use of secondary legislation, should be agreed between Government and Parliament, on the basis that:

a. those principles would govern the scope and nature of powers contained in Bills, and the use of those powers when any Bill is enacted;

b. the MoU would be the "Bible" as to the use of secondary legislation for Ministers and Civil Servants, governing the preparation of every Bill and SI; and

c. on the introduction of every Bill, the Government would be required to make a statement setting out how it meets the requirements of the MoU or give a full explanation for why (exceptionally) it did not.

R.8.11. It would be for the Government and Parliament to decide on the mechanism for drawing up and agreeing the MoU, and how any subsequent amendments are to be made to it. In those discussions, we suggest that the Government should be led by the Cabinet Office, and Parliament by the Committee of Selection.

R.8.12. Such an MoU should cover the following.

a. Ministers should use delegated powers in ways that were originally intended by Parliament, and so there should be a strong presumption that secondary legislation would be used only to make provision about operational details and administrative procedures, not for matters of general principle and policy.

b. Bills should tightly define the scope of any powers to make secondary legislation, and set out clearly the purposes for which they may be used.

c. "Skeleton" Bills or clauses (which leave essential elements of policy or principle to be defined in secondary legislation), Henry VIII powers (i.e. the Power to modify an Act of Parliament by secondary legislation) and Bills conferring powers to create a further tier of 'sub-delegated' legislation should not be used except in wholly exceptional circumstances, in which case:

i. the scope of any such power should be clearly defined (including, for Henry VIII clauses the Acts or categories of Act to which it is to apply);

ii. it should always be subject to future (non-time-limited) annulment motions in the Houses of Parliament; and

iii. there should be a full explanation provided to Parliament as to why it is needed.

d. Secondary legislation should not be used for measures that have significant negative implications for civil liberties.

e. An Act of Parliament should not contain a delegated power for a Minister or other person to amend or suspend that Act.

f. Bills proposing conferring powers to make secondary legislation should provide for Parliament to have an appropriate level of supervision over the exercise of those powers. Negative SIs (which are not normally debated – subject to the procedural changes recommended below) should generally be confined to areas that are purely technical or minor in nature.

g. When it becomes law, delegated legislation should immediately be published in a clearly identifiable and accessible place, and should never come into force before it has been published.

The House of Commons should have greater oversight of secondary legislation

R.8.13. The House of Commons' procedures should allow for greater scrutiny of secondary legislation, in particular of negative SIs, which form the vast majority. It is not suggested that all such SIs would be debated (as that would not be a proportionate use of Parliamentary time), but rather that there should be greater opportunities for MPs to raise concerns about particular SIs. This would draw on the expertise and constituency or other interests of MPs, and improve the quality, transparency, accountability and democratic legitimacy of the law-making process. Accordingly:

a. a consultation procedure should be introduced to allow MPs to raise concerns, and to suggest any changes required to make an SI acceptable before the instrument is considered by the House;

b. there should be a dedicated slot for the consideration of annulment motions tabled by MPs in each parliamentary session;

c. a procedure (independent from Government) should be established to allow backbenchers and/or the Opposition to bring an annulment motion to the Floor of the House, at the discretion of the Speaker;

d. departmental Select Committees should be tasked with scrutinising the underlying policy of secondary legislation. This should be seen as additional to the role of the Joint Committee on Statutory Instruments;

e. Select Committees should be given the ability to request a debate, at the discretion of the Speaker, if they believe an instrument warrants consideration by the House; and

f. the House of Commons should consider creating a new committee (perhaps jointly with the House of Lords) to oversee the processes of secondary legislation generally, including the operation of the MoU recommended above.

The House of Lords should have an enhanced role in the scrutiny of secondary legislation

R.8.14. The House of Lords' role in the scrutiny and approval of affirmative secondary legislation (those SIs requiring a debate in each House) should also be enhanced.

a. The House of Lords should have power to delay, in exceptional circumstances, the approval of such an SI.

b. This suspensory power could be implemented via a change in the House of Lords standing orders with a view to delaying the vote (but not the debate) on an SI for a specified period of time (e.g., until after the production of a report or impact assessment, or for a fixed amount of time).

Such a change would reflect the proper legislative relationship between the Commons and Lords, whilst providing for meaningful input from Peers, for example in their areas of particular expertise, or on the constitutional implications of an SI.

Transparency should be improved

R.8.15. The Government should take measures generally to improve public understanding about the use of secondary legislation, how it is made, and its legal effects for citizens and businesses. This should include steps to ensure that SIs and related explanatory material are readily accessible (including on official websites); and that the language used in such material is as comprehensible as possible.

R.8.16. The Government should also clarify the status and use of 'quasi-legislation' (for example, codes and guidance, which do not take the form of either primary or secondary legislation), and in particular:

a. the Government should establish and maintain a database of quasi-legislation that can be readily inspected by the public;

b. the database should contain an explanation of the scope and legal effect (if any) of such quasi-legislation; and

c. there should be a clear demarcation between quasi-legislation addressed to the general population (such as the ***Highway Code***), and that addressed to particular categories of officials (such as the ***Judges' Rules***).

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

9

The role of the Civil Service and its relationship with Ministers

R.9.1. The ability of the Civil Service to operate within and uphold standards in governance has been the bedrock of much of the operation of our governance system. We recognise that, in 2024, the Civil Service is under strain as an institution. In private, in conversations with those who have experience as Ministers or senior Civil Servants, it is striking how much consensus there is on the need for a fundamental re-think.

R.9.2. However important such a re-think might be, it is outside our scope. Exploring the question properly requires detailed knowledge, evidence, study, expert advice and consultation for which we do not have the time, expertise or resources. Further, we believe such a conversation does not belong in the confines of only the Government of the day. Accordingly, we recommend that a Royal Commission be urgently established to examine the changes necessary to reconfigure the Civil Service, to place it on a new footing, with appropriate resources, fit for the roles that it will have to fulfil in the future. That Royal Commission should operate on a cross-party basis, drawing on the wide range of experience of politicians from different parties alongside representatives of the wider communities the Civil Service is also there to serve. It should also take evidence from Civil Servants themselves about improvements they would recommend.

R.9.3. We have, therefore, restricted ourselves to specific and limited proposals which we believe would have the effect of strengthening the quality of governance in the UK as things stand now. We believe that these proposals could and should be implemented rapidly. A Royal Commission could then assess whether those changes had been valuable, and propose any amendments it thought fit. Of course, it would also be possible for implementation of these recommendations to be deferred to such a Royal Commission. That is not our proposal, as it would, inevitably, involve delay in strengthening governance in a critical area.

We recommend that:

The Civil Service Code should create legal obligations

R.9.4. The Constitutional Reform and Governance Act 2010 (CRAG) should be amended to make explicit that Civil Servants have a legal obligation to act in compliance with their responsibilities under the Civil Service Code and Ministers cannot direct them to act in opposition to the Code.

The centrality, and accountability, of Permanent Secretaries should be strengthened

R.9.5. The title of Permanent Secretary should be limited to the most senior official who leads each Department. We understand the pressures which have led to the relative proliferation of the title but we think that the resulting dilution has been unhelpful. References in this Recommendation to Permanent Secretaries should be construed therefore as references to Departmental Permanent Secretaries.

R.9.6. The role of the Permanent Secretary should be strengthened given their importance in ensuring that the systems of accountability and governance are adhered to. In particular:

a. each Permanent Secretary should be accountable to Parliament for the health of public administration in the area of, and the operational performance of, their Department and should report annually to Parliament on that health.

b. a statement should be included in that annual report to Parliament for each Department, as to the accuracy of communications issued during the relevant year by the Department.

c. each Permanent Secretary should be accountable for ensuring compliance by their Department with:

i. their obligations under the Public Records Act 1958 (so that there is a clear record of who took what decisions, with what advice and for what reasons);

ii. CRAG;

iii. the Civil Service Code and Special Advisers' Code;

iv. the Freedom of Information Act 2000;

v. the requirements of Managing Public Money; and

vi. the Public Appointments Code,

and the annual report to Parliament should include a statement on the quality of compliance in these respects.

R.9.7. The previous status of permanent Civil Service appointments should be restored. Permanent Secretaries have been put on 5-year fixed term (essentially temporary) contracts which appears to have a negative effect on their ability to defend appropriate behaviour in the face of Ministerial pressure, for example on public appointments, procurement or communications. To ensure that Permanent Secretaries remain properly accountable, the Cabinet Secretary should specify how they will be held to account both for their own performance and for that of their Departments.

Transparency should be enhanced for certain aspects of Civil Service work

R.9.8. The default practice should be that any analytical models used by a Civil Service Department in the course of undertaking analysis for policy development or evaluation are made public promptly, including providing underlying data sources and assumptions in accordance with standards set out by relevant data advisory bodies.

R.9.9. Ministerial Directions should always be recorded and a copy should always be provided to the Liaison Committee and the relevant Select Committee(s) as well as the NAO.

R.9.10. The Prime Minister should set clear objectives for Cabinet Ministers and their respective Departments. These should be made public. Permanent Secretaries should be accountable to Parliament in their annual report (as above) in relation to the administrative function of their Department and performance by the Department against agreed objectives. Ministers will remain accountable for the delivery of their own objectives and for policy and their decisions.

R.9.11. Ministers should be accountable for ensuring that the Civil Service is appropriately resourced for the responsibilities with which it is tasked. The Minister for the Civil Service and the head of the Civil Service should report to Parliament annually on the overall status, resourcing and performance of the Civil Service and on the improvements that could be considered in that respect.

R.9.12. The Cabinet Secretary should confirm that all Departments are capable of implementing the Government's policy objectives for each Department. This includes confirming that the Department is adequately resourced in terms of capacity and capability to meet the demand from Ministers, comply with their statutory duties, and ensure the safe operation of systems for which they are responsible.

The role of the Civil Service Commission (CSC) should be enlarged, with a corresponding increase in its resources, by amendment of CRAG where necessary.

R.9.13. The CSC should retain its key role of proposing internal and external appointments within the Civil Service. Such appointments should be made on a politically neutral basis and should be guided by the principle that the Civil Service is open (at all levels including at the top) to people with a range of backgrounds, skills and experience. The Senior Leadership Committee (SLC) should publish or provide to the CSC an annual account of the SLC's activities.

R.9.14. The CSC's position as guardian of the Civil Service Code should be clarified and strengthened. Pending the report of the Royal Commission, it should report annually on the overall state of the Civil Service and any recommendations for its improvement. This would include monitoring the discharge by Permanent Secretaries of their accountability for the health of public administration as described in R9.6 above and working with Permanent Secretaries to assist them in discharging that responsibility.

R.9.15. The CSC should be responsible for the independent enforcement, and investigation of alleged breaches, of the Civil Service Code, irrespective of whether the issue arises within the scope of section 9 of CRAG. It needs to have the resources to undertake (or supervise, to the extent that work is outsourced) that enforcement and investigation responsibility, and the ability to hear any complaint without having to refer back to the Cabinet Office.

R.9.16. The CSC should have an effective and confidential ethics hotline to enable concerns, in particular relating to the application of the Civil Service Code, to be surfaced to it effectively and quickly by Civil Servants and for them to receive advice and support or to raise issues that do not lead to a formal complaint under CSC procedures. It also needs the power and duty to initiate investigations and to raise any issues, where necessary with the appropriate responsible individual or regulator if the behaviour concerned involves individuals outside the permanent Civil Service (e.g. Ministers, SPADs, MPs, Peers or members of the public).

R.9.17. The First Civil Service Commissioner should bring to the role sufficient seniority and experience to ensure they can operate independently, without fear or favour. Whilst a depth of experience in Human Resources within industry or a comparable operational environment is likely to be an advantage this should not be a requirement for appointment.

R.9.18. Members of the CSC should have sufficient time to undertake their role effectively and sufficient remuneration for them to treat it as an important responsibility. Appointments to fill vacancies should be made promptly.

R.9.19. The CSC should have sufficient dedicated, independent and suitably skilled resources to support this expanded role.

A Royal Commission should be established urgently

R.9.20. A Royal Commission should consider what would be the best operating model for the Civil Service for the remainder of the 21st century. The terms of the Royal Commission should be widely drawn and could include the following:

a. Examining the model of an impartial anonymous and permanent Civil Service and recommending whether this is the best (or only) model to serve modern Government, with particular regard to the changed context in terms of anonymity, the relationship with accountability, and Ministers' desire to make direct appointments to drive their priorities.

b. Whether, in the light of the Royal Commission's analysis, any parts of the Civil Service or its operations or its responsibilities should be put on a statutory basis, or a revised statutory basis.

c. The overall size and scale of the administrative Civil Service.

d. How to ensure that the Civil Service delivers ongoing value for money for the taxpayer, including:

i. appropriate pay and reward structures that would incentivise recruiting and retaining the right talent to deliver for Ministers, Governments, and the public over the short, medium and long term.

ii. how to ensure that the Civil Service workforce is diverse and open at all levels to people from all backgrounds and with different experiences to meet the challenges of the time; and

iii. the appropriate accountability framework and how it should apply at different levels, including where the boundaries between Ministerial and officials' accountability should lie. It may be that different models should be examined for different facets of public administration (for example it might be appropriate to allow for a different kind of accountability, reward and incentive structure for people working on long-term infrastructure projects).

e. Evaluating where the appropriate boundaries might lie in terms of what should be delivered by Civil Servants as opposed to other agencies or bodies of the State (effectively re-examining some of the questions answered by the "Next Steps" review and subsequent re-organisations to ensure clarity of accountability and expectations).

f. The extent to which advice from the Civil Service should be made public as regards:

i. the principle that greater transparency and openness will lead to higher quality of decision-making; and

ii. the Civil Service as a potential check on the inappropriate exercise of power by the Minister (where this might be in direct tension with their imperative to serve the Government of the day and to advise in private); and

iii. as a balancing consideration, the potential impact of publicity on the privileged and confidential relationship in which advice is currently given.

g. Whether the Civil Service should also have the function of acting, in an appropriate and limited way (e.g. by seeking "a second opinion"), as a check or balance on the exercise of power in the UK, to reduce the risk of abuse of that power or of failure to achieve appropriate standards of public administration. We do not endorse such a function and we recognise that this, particularly, is a fundamental and complex question to which there is no simple answer.

h. How Civil Service appointments are made, and how the most senior Civil Servants are appointed and incentivised.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

10

The role and appointment of special advisers

R.10.1. The public profile, numbers, and influence of special advisers (SpAds) in Government has continued to grow. There are ambiguities (and sometimes tensions) that flow from SpAds' status as both temporary civil servants and political appointees, impacting them personally and the effectiveness of Government more widely.

R.10.2. SpAds are temporary civil servants, used by Ministers to provide political and policy guidance, advice, and assistance, not least when the use of the permanent (and politically impartial) civil service would be inappropriate. The Commission believes that SpAds fulfil a valuable and legitimate role in supporting Ministers. However, having a cadre of committed and talented people exercising considerable influence on executive decisions and policy who are neither subject to the disciplines of the legislature, nor fully within the civil service structure, poses significant governance issues.

R.10.3. The Commission seeks to reduce these ambiguities by ensuring a proper level of accountability and transparency around SpAd appointments and activities as well as by providing SpAds with better employment protections, management frameworks and support.

We recommend that:

The Ministerial Code and Special Adviser Code should clarify the special adviser roles that exist in Government

R.10.4. The Commission is not prescriptive as to these roles, but:

a. the remit, responsibilities, and scope of each 'strand' of SpAd should be clearly demarcated in the Ministerial and Special Adviser Codes; and

b. it should be clear how:

   i. these responsibilities differ from those provided by the policy analysts and media officials within the permanent Civil Service;

   ii. SpAds interact with the Civil Service in respect of those roles.

Accountability for each SpAd should be clear

R.10.5. The Ministerial Code should be amended to state explicitly:

a. it must be clear who is accountable for each SpAd role (and SpAd appointment processes should expressly reflect that position);

b. where a SpAd is accountable to a Secretary of State, that Minister is responsible for enforcing the SpAd's obligations in relation to conflict-of-interest rules and the SpAd code;

c. where SpAds are appointed to ministerial teams by Number 10, the Prime Minister is ultimately accountable for their actions;

d. the Ministerial Code should specify that failure to hold SpAds to these standards is a breach of the Ministerial Code for which Ministers (including the Prime Minister), can be investigated and the Code Commissioner should be responsible for investigating any instances where ministers breach the Ministerial Code in relation to the conduct of their SpAd; and

e. the Ministerial Code should also be amended to state that, if a Prime Minister wishes to dismiss a SpAd they have not appointed or wish to withdraw their consent to a Minister to appoint one, this should be discussed with the relevant Secretary of State.

There should be a cap on the number of SpAds

R.10.6. A rigorous limit should be applied to the number of SpAds in Government as a whole.

R.10.7. The current theoretical (but often breached) cap of two SpAds per Minister should be aggregated and the total allocated across departments, at the discretion of the Prime Minister but subject to not more than 25% of the total number of SpAds being committed primarily to advising the PM.

R.10.8. The use of SpAds by junior Ministers should be discontinued.

A single, senior figure should be responsible for supervising the provision of training and HR/ pastoral support for SpAds

R.10.9. A senior figure in Number 10, appointed by the PM, should be responsible for supervising the training, evaluation, grading, and support provided to departmental SpAds.

SpAds' employment status and HR provision should be clarified and improved

R.10.10. All SpAds should have, as a minimum, basic contracts of employment and the rights and benefits afforded by the Civil Service Human Resources function to the extent applicable for temporary staff.

Transparency about SpAds' roles, costs, and responsibilities should be improved

R.10.11. The annual publication of information regarding SpAds, should be expanded to include information about the specific roles and responsibilities of SpAds (not just the Minister to which they are accountable). In particular:

a. it should be stated which specific projects SpAds are managing, any line-management responsibilities they hold, and the salary cost for SpAds per department as opposed to just in total; and

b. the Government must also notify the appropriate departmental Select Committee promptly when a new SpAd is appointed (and not wait for the annual reporting), along with a copy or description of a SpAd's qualifications and a letter stating the reason for their appointment.

Training for SpAds should be enhanced

R.10.12. Standard basic training for SpAds should be introduced. This would be mandatory for all appointees and would include:

a. the scope of the codes of conduct relevant to SpAds (including Ministerial, the Civil Service and SpAd Codes);

b. the implications of SpAds' status as temporary civil servants and their obligations under access to information legislation; and

c. how ministerial accountability affects SpAds' relationship with their Minister in practice;

d. the role and remit of the Permanent Secretary; and

e. the standards of conduct in public office training referred to in Recommendation 6.

Conflicts arising from SpAds participating in national politics should be avoided

R.10.13. The changes made in 2015 to the Code of Conduct for special advisers, which had the effect of permitting SpAds to participate in national political activities and stand as parliamentary candidates, should be revoked.

a. SpAds should not be permitted to hold any employment in a political party in addition to their role as a ministerial adviser or to stand as a candidate for an elected position whilst holding their roles as SpAds.

b. SpAds should be subject to (i) the Commission's proposed new Conflict of Interest rules (which include disclosing conflicts relating to possible future employment) and (ii) the Business Appointments Rules as applied and enforced by AcoBA.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

11

The role of the Electoral Commission

R.11.1. Although the EC has performed an important role as the independent body overseeing and regulating elections in the UK since 2001, both the EC, and UK electoral law more widely, would benefit from further clarification, strengthening, and consolidation. Elections are at the heart of how power is allocated in the UK and the processes for fair and transparent elections need to be as robust as possible. The Commission does not believe that there can be a serious argument against the effective underpinning of the strength and fairness of our democracy. The EC is the only body currently capable of taking on that role.

R.11.2. The EC undertakes important work in providing guidance to the electoral administration community, and in promoting public awareness of electoral matters. However, reflecting our governance approach, our Recommendation focusses on its reporting on the quality of elections, the regulation of political donations and expenditure, the promotion of electoral registration, the running of national referendums and investigation and enforcement powers.

R.11.3. The Recommendation does require primary legislation, not least since the existing position is enshrined in legislation. However, the proposed changes should be reasonably easy to draft (in some cases, amounting to nothing more than revocation of recent changes that have undermined the independence and authority of the EC). The proposed unification and codification of electoral law would for the most part be an essentially mechanical task. The Commission does not expect these changes to result in a material net increase in associated costs.

We recommend that:

Independence for the EC should be strengthened

R.11.4. A statute should set out the overriding responsibility of the EC, as an independent body, to safeguard and improve the electoral process, and its openness and fairness, in the United Kingdom.

R.11.5. The EC should be chaired by a recently retired judge of High Court rank or above, chosen by the Lord Chief Justice in consultation with existing EC Commissioners. Ministers should have no role in the selection of the chair of the EC, nor its Commissioners.

R.11.6. To underline and protect the independence of the EC, the provisions of the Elections Act 2022 which provide for a Strategy and Policy Statement from the Government should be repealed.

There should be clearer Election laws and information

R.11.7. Electoral law should be brought together and set out in a single, pan-electoral legislative framework, easily accessible in one place by all.

R.11.8. Primary legislation could be used to consolidate those aspects of electoral law for which there are no current proposals for change. Such legislation would allow a single set of polling rules to apply to all elections, and would cover:

a. the current electoral franchise;

b. the current voting system for national elections;

c. electoral administration;

d. the election timetable;

e. conduct of the poll; and

f. provisions on legal challenges to elections and regulation of the electoral offences.

R.11.9. This primary legislation would set out electoral law for all elections including devolved elections but the devolved legislatures could make amendments to the above primary legislation via devolved statute, to reflect their areas of jurisdiction.

R.11.10. Voters should be able to verify online whether they are on the register for the address at which they are living so that, amongst other benefits, potential voters can see whether they are registered and do not put in superfluous requests for registration.

The EC should have stronger enforcement powers

R.11.11. Section 19 of the Elections Act 2022 should be repealed. This change will permit the EC to undertake criminal proceedings. The EC's Head of Legal Service, appointed by the EC Chair in consultation with the Director of Public Prosecutions, should be given the powers of a Chief Crown Prosecutor.

R.11.12. The EC should take over prosecutions under the Representation of the People Act(s), as well as the Political Parties and Referendums Act 2000, with the ability to prosecute acts of intimidation or bribery.

R.11.13. The EC's existing investigatory powers should be strengthened, including powers equivalent to those currently exercised by the National Crime Agency, and it should have access to resources to operate them. Those powers should include the ability to open an investigation into any circumstance where it appears to the EC that an attempt is being made to circumvent the existing legal restrictions in relation to the funding or administration of any relevant election. All investigations should be opened within 12 months of the date of any potential offence (or its being brought to the attention of the EC).

R.11.14. The EC should have power to make anti-avoidance rules where an EC investigation demonstrates that circumvention of existing legal restrictions is being achieved.

R.11.15. The maximum fine leviable by the EC should be raised to £500,000 per offence, or 4% of total campaign spend, whichever is larger. In order to avoid a fine, parties and campaigns should be permitted to amend minor financial reporting errors with the EC before any sanctions are imposed.

R.11.16. All donations to political parties by unincorporated associations should be subject to the requirement that the association disclose the source of its own funding. The current rule whereby no transparency as to the source of funding is required, in respect of donations by an unincorporated association which amount in aggregate in any calendar year to less than a specified threshold, should be terminated.

Parliament

R.11.17. The EC should report to Parliament every 5 years on the quality of electoral democracy in the UK, indicating areas for improvement, for consideration by the Government of the day.

R.11.18. The statute should specify that the Government should never have a majority on the Speaker's Committee on the Electoral Commission.

Certain additional, background material for this Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk).

ANNEXES

Annex 1 – The Members of the Commission

1. The Right Honourable Dominic Grieve KC (chair)
2. The Right Honourable Dame Margaret Hodge DBE
3. Professor David Howarth
4. Sir Jonathan Jones KCB KC (Hon)
5. Helen MacNamara CB
6. Professor Anand Menon
7. The Right Honourable Lord Neuberger of Abbotsbury
8. The Right Honourable Baroness Prashar CBE

Annex 2 – The Background

A.2.1. The Commission was formed reflecting widespread concern that the governance arrangements of the UK are not functioning well. In this sense, governance is taken to mean the effectiveness of the structures through which power is exercised and the quality of decision making and implementation, in regard to central UK Government activity. Annex 3 contains a brief description of the conceptual problem which the Commission has focussed on when formulating its Recommendations.

A.2.2. Good governance leads to many benefits including:

a) stronger democratic structures and protections;

b) more efficient use of public resources and better returns for the population;

c) more rational and better implemented policies; and

d) over time, an enhanced global reputation for the UK, leading to stronger soft power and lower borrowing costs.

A.2.3. To set sensible limits on the scope of our work, and reflecting a focus on providing recommendations that could achieve a significant improvement in the short term, the Commission excluded certain areas from its thinking. This was, variously, because they were already the subject of detailed consideration and reports elsewhere; or carried substantial political and historical baggage; or were difficult to bring to a conclusion and implement promptly. Those areas were principally:

a) devolution and Westminster's relationships with the devolved administrations;

b) House of Lords reform (other than as regards entry thereto);

c) electoral reform; and

d) constitutional reform as such and the issues associated with a written constitution.

A.2.4. Again, our focus is to make readily implementable proposals which can achieve material change, promptly. As the scope of our Recommendations indicate, there is much which can be achieved within those parameters.

A.2.5. We were enormously assisted by the wide range of outstanding thinking, research, analysis and writing that has been published on this subject by academics, think tanks, public reviews and journalists, particularly over the past year or so. We have aimed not to duplicate that work but to build on it, from our own experience, to produce workable reforms. A list of primary sources reviewed is listed in the supporting background material, split by Recommendation, and the bibliography (also provided on the Commission website) contains a more extensive list.

A.2.6. Not only is improvement in this area important for the UK substantively, it is a clear expectation of the electorate. Generally, voters are unlikely to be interested in the details of the changes needed, but it is clear from polling, citizens' assembly work and the like that there is very strong public concern that: (i) the country is not being well run; and (ii) standards in public life are low. Commensurately, there is a strong public demand to see improvements. This is clear, for example, from the results of the survey and citizens' assembly work carried out by the UCL Constitution Unit in 2022, which found that while most people expressed broad satisfaction with democracy, they had very little trust in politicians. Trust would improve, this work suggested, if politicians were seen to be honest, have integrity, and operate within clear rules. Finally, most people involved expressed concerns about the over-concentration of power in the hands of a few politicians. Annex 7 contains an overview of certain key elements of this work and of other polling, which we think are relevant background to the work of the Commission and to the support for it which we believe to exist, from the wider public as well as from individual experts and bodies.

Annex 3 - What problem are we trying to fix?

A.3.1. It has become increasingly evident (over many years) that the systems and practices of governance in the UK have not been functioning well – falling well short of the high standards expected by the public. The problems have been widely debated and analysed (see the bibliography provided on the Commission website). They include a fall in standards of integrity in public life, weak controls on mis/abuse of power, poor decision making and implementation, and consequent damage to our national reputation. Taken together these problems threaten the quality of our democracy.

A.3.2. There are many reasons why this has occurred. They include: the traditionally loose nature of constitutional structures in the UK, based on precedent, convention, trust and tradition rather than clarity and enforcement; the stresses imposed by recent events and personalities (in the context of the economic and social shocks arising from the financial crisis, Brexit and Covid); the increasingly complex and interconnected nature of decision making in a world with rapid technological advancement; and the rate of change in political and economic circumstances, not least in a social media environment.

A.3.3. There is therefore a need for new measures, drawing on principles of good governance, to provide appropriate checks and balances in the system, clarity about the rules, suitable enforcement mechanisms, and incentives towards the responsible exercise of power and the taking of good decisions in the wider national interest (rather than personal or narrow factional interests).

Annex 4 – The principles applied and working methodology adopted by the Commission

A.4.1. None of the Commissioners or senior support staff have received any payment in relation to their work on the Commission. Funders for the limited costs of the Commission have neither sought nor had any influence over the process, scope or detail of Recommendations, all of which have been entirely for the Commissioners to determine, with the help of the work undertaken by the support staff.

A.4.2. The Commission has applied the following guiding principles in its task:

- To work within the current system rather than to change it fundamentally (which would require far more analysis and consultation and would bring with it much increased risk of unintended consequences).
- To follow, reinforce and instil the Nolan principles for standards in public life and, more widely, the traditional British values of the rule of law, transparency, fairness, professionalism and high ethical standards.
- To underpin democracy, based upon the sovereignty of an elected parliament.
- To increase public confidence in Government and in our democratic system.
- To propose changes which are relatively easy to make but which would make real improvements.
- To acknowledge and build on the great deal of excellent work that has already been done in these fields.
- To avoid the need for primary legislation (and thus limit the impact on Government time and on the legislative timetable), except where justified, for example to create new independent legal structures, or to confer enforceable legal powers.
- Where legislation is necessary, to keep it as simple as possible.
- To respect the role of the Prime Minister as the head of Government.
- To make the working of Government more efficient and effective.
- To make proposals that (a) would have limited cost to implement; and (b) have limited risks of unintended or adverse consequences.
- To produce a set of recommendations that could be implemented either as an integrated package or individually.
- Not to make recommendations in areas where it is not reasonable to expect rapid implementation, even where far-reaching (but more controversial) reforms could be justified and, in particular, not to consider the topics of:
    - House of Lords Reform;
    - Electoral Reform;
    - Devolution (and relationships between the nations); or
    - a Written Constitution (and related issues),

  on the basis that these topics are ones of particular complexity, which are actively debated elsewhere and which are not capable of rapid implementation, whatever the views on their respective merits.

- To retain a focus on
    - the need to strengthen the effective decision-making and decision-implementation capability of ministers and the quality of the working relationship with the Civil Service;
    - the need to restore public confidence in the ethical and propriety standards of both elected and unelected decision-makers in central UK Government, considering both what those standards should be and the appropriate mechanisms for their enforcement;
    - the need to ensure confidence in and transparency of our electoral systems;
    - the importance of ensuring an appropriate and proportionate degree of scrutiny over those exercising executive power in the national interest; and
    - the fact that the overwhelming majority of individuals engaged in public life are committed to acting in accordance with high standards of integrity and ethics, and must not be discouraged from entering public service.

A.4.3. The recommendations in this Report reflect the above principles and were developed in discussions within the Commission, with expert third parties, and with the three main political parties. The conclusions are, obviously, those only of the Commission itself.

A.4.4. Applying these principles, the Commission followed the following methodology:

I. Commissioners choose key areas, where positive change appears to be possible in the short term without significant cost, including expenditure of legislative time. A short list of eleven focus areas is chosen.

II. For each area, a sub-group of two or three Commissioners, with support from a team of researchers and project-managers, read all relevant materials and discuss with other expert individuals.

III. This sub-group engages in discussion, bringing in views of other Commissioners as needed.

IV. Each sub-group prepares a draft Recommendation which is then tested (a) at a series of weekly all-Commissioner meetings, held during September, October, November and December; and (b) in interviews with expert individuals including those specified in Annex 5; these interviews were conducted between August and December by one or more Commissioners together with at least one member of the support team, and a confidential note of the main points discussed was prepared, agreed with the interviewee and shared with all Commissioners.

V. As the draft Recommendations evolved into firmer and more detailed proposals, the interviews described above became increasingly focussed on this detail, and took the form of seeking challenge to what was being proposed, with a view to maximising the range of perspectives from which each Recommendation was tested and analysed, and to try to identify as early as possible any unintended consequences which might result from the detail of each Recommendation.

VI. Engagement with the three main political parties was an important practical element, during the period when the Commission was being established and throughout its life. This was based on a recognition that the Commission's aim to articulate implementable proposals would require the buy-in of as many as possible of these political parties, as being the groups who would determine the initial legislative programme of the next Government. This engagement was essentially informational and involved no surrender of autonomy or independence of thought on the part of the Commission.

VII. The final stage in the preparation of this Report took place in December, following completion of the review, engagement, interview and challenge process described above. This stage was essentially one of refinement and finalisation of each Recommendation and of the other elements of this report.

Annex 5 – Names of certain individuals who provided advice and views to the Commission

Rt Hon Lord Anderson of Ipswich KBE

Rt Hon Lord Barwell

Rt Hon Lord Bichard KCB

Sir Nigel Boardman

John Bowers KC

Daniel Greenberg CB

Dr Cath Haddon

Professor Robert Hazell

Murray Hunt

Professor Michael Kenny

Rt Hon Sir Oliver Letwin

Rt Hon Sir Brian Leveson

Rt Hon Lord Lisvane KCB

Caroline Lucas MP

Rt Hon Baroness Morgan of Huyton

Rt Hon Lord Norton of Louth

Professor Gillian Peele

Bob Posner

Professor Jacob Rowbottom

Rt Hon Amber Rudd

Professor Meg Russell

Rt Hon Baroness Stuart of Edgbaston

Rt Hon Lord Sumption OBE

Rt Hon Lord Thomas of Cwmgiedd

Sir Charles Walker KBE MP

Dr Hannah White OBE

Annex 6 – Areas for further consideration

A.6.1. In our work we considered a number of areas which are not the subject of current Recommendations, but which would be high priorities for further consideration. We did not address them in detail for various reasons including their potential complexity, the need for wider consultation, the fact that they would take time to implement and due to limitations on our own resources[1].

A.6.2. These areas include:

I. **Lobbying** In interviews carried out with experts for the purpose of this Report, we regularly heard the view expressed that lobbying is a big area where there are real problems, and which needs reform. This was felt to include lobbying by overseas governments and various other forms of overt and surreptitious lobbying. The view was expressed that Think Tanks should be obliged to disclose their sources of funding, that the making of an untrue statement in a lobbying context should constitute a criminal offence, that the lobbying Code should be statutory and should be more broadly drawn; the clear view was that the current terms fail to catch the wide range of activities.

II. **Internal audit** The Government does not have an effective internal audit function, with the capability to investigate governance failures. The National Audit Office could, potentially, take on this role but does not currently have the resources to do so and there would need to be a re-definition of its priorities, and possibly its powers.

III. **Continuous improvement** It is not clear who in the UK Government has responsibility for ensuring good governance in the UK, and certainly not in practice. Ultimately, that should fall to the Prime Minister, supported by the Cabinet Secretary, or possibly the Public Administration and Constitutional Affairs Committee, but they do not have the capacity or resources to address the issue systematically and it is not clearly identified as a responsibility. Should a body, either within the system proposed in this report, or a committee of Parliament, have a responsibility for monitoring and making proposals to ensure the continuous improvement of governance in the UK?

IV. **Change control on projects** Change control on projects and initiatives would be a normal feature of most organisations. It involves the reassessment and possible refocussing of activities when assumptions or operating conditions change and undermine the original decision to proceed as well as preventing inappropriate change and mission creep. It is not clear how that control functions in UK Government, beyond a limited review function within the Treasury.

V. **Quality of Decision making** This is critical. There seems increasingly little consistency or rigour in how critical decisions are made – although recognising that any processes should not unduly adversely impact the effectiveness of Government and that time pressures need to be accommodated. Thought should be given to formalising, improving and recording the processes for decision making, as well as delegation for implementation and the processes for review.

1. These areas are in addition to those noted in Annex 4 which were excluded because they: (a) are already the subject of detailed consideration and reports elsewhere; (b) carried substantial political and historical baggage; or (c) were difficult to bring to a conclusion, and implement, promptly. Those areas were principally: (a) devolution (and Westminster's relationships with the devolved administrations); (b) House of Lords reform (other than as regards HOLAC strengthening); (c) electoral reform; and (d) constitutional reform (and the issues associated with a written constitution).

VI. **Record keeping** Allied to this, the quality of record-keeping has deteriorated dramatically, not least with the use of private messaging systems such as WhatsApp. In many cases, there is no, or no sufficient, public record. This means that it may not be clear who actually took a decision (as opposed to who should have taken it), for what reasons, on what advice and having considered what issues. This encourages sloppy decision making and a lack of responsibility. Moreover, it destroys accountability. There needs to be a review of the nature and effectiveness of the Governments systems for record keeping in the digital world. In our Civil Service Recommendation, we provide for Permanent Secretary accountability for effective application of the Public Records Act; the proposed Royal Commission would assess whether this change, if implemented, is in practice sufficient. A linked question relates to the accessibility of such records; we have received a significant weight of expert opinion suggesting that greater transparency would be both appropriate and would contribute to better decision making over time.

VII. **Data** In an increasingly data driven world, there needs to be a systematic re-think of the role of data in Government and how to link together data systems and contents to support effective analysis and decision making.

VIII. **Civil Service skills and recruitment** Relatedly, it is clear that the Civil Service will need continuing reform to be able to support Government, in terms of possessing the necessary range of skills (including technical and data); having the right balance between specialist knowledge and generalism; being of sufficient size; offering appropriate remuneration to ensure people of the right calibre, experience and ambition; avoiding operating in silos; and with the flexibility to reconfigure on a short and medium term basis to address cross-cutting issues etc.

IX. **Amendable Statutory Instruments; a Sifting Committee** both of these suggestions have been strongly advocated to us in the context of our researches and interviews in relation to the current challenges in the area of secondary legislation. We think that there is sufficient merit in both suggestions to justify further analysis.

X. **Further Electoral Commission points** Certain additional, background material for the Electoral Commission Recommendation is available on the website for the Commission (https://www.ukgovernanceproject.co.uk). This material includes a note of certain additional matters which the Commission considered carefully but decided not to include in the body of the Recommendation. These include additional elements relating to: (i) funding of political parties and elections; and (ii) transparency as to the assets of political parties, as well as certain other items which the Commission believes are worthy of consideration but which we left out of the main Recommendation lest it become too lengthy or cluttered. However, we believe that these specified items also merit consideration and further analysis.

Annex 7 – Overview of public opinion

A.7.1. This annex provides an overview of public opinion and public engagement relating to the themes which the Commission has engaged with. The sources below are varied, ranging from surveys by polling companies to academic journal articles. They demonstrate that the reforms put forward in the Recommendations should command real public support, and further indicate that the actions of political parties in these areas are highly likely to influence voters' electoral decisions. Some of the sources date back several years but are, nevertheless, cited to show that the relevant issues are long-standing and that public sentiment has been building steadily for quite a long time. The summaries of some of the sources are kept brief and organised by theme to aid readability, but references to the full sources are provided below. Of particular note is the work done by the UCL Constitution Unit which has contributed several of the most recent and cogent sets of data.

Confidence and trust in democracy, Parliament, and Government

- There is a high level of dissatisfaction with the quality of democracy in the UK, with just 38% of respondents describing themselves as 'satisfied' by the summer of 2022, versus 52% who were dissatisfied (Renwick et al., 2023a).

- There is found to be majority support for the principle of democracy among British voters, though this is somewhat contingent on the delivery of effective Government. 32% of respondents agree that 'democracy is always the best form of Government', while 54% say 'democracy is good so long as it delivers effective Government' (Renwick et al, 2023a).

- Confidence in Parliament among Britons has declined markedly since 1990, when 46% of voters said they had faith in the institution. This confidence (as of March 2023) had fallen to a historic low of 23%. This is matched by a marked decrease in confidence in political parties and government in general (The Policy Institute, 2023).

- Levels of confidence in government in Britain are among some of the lowest found in Europe. A quarter of Britons said they have confidence in the government, on a par with Poland (23%), Brazil (23%) and Italy(23%), behind the European average of 43% (The Policy Institute, 2023).

- The public is wary of politicians' ability to act honestly or competently overall. Just 18% of voters trust the Prime Minister to act in the interests of the public, as do 20% for Parliament. (Renwick et al., 2023a).

- 63% of voters believe that British governance is rigged to the advantage of the 'rich and powerful' (Bruce, 2022).

- There has been a rise in the number of people believing politicians are 'out for themselves' over time. In 2021 IPPR found that 63% voters now view politicians as such, compared to 35% in 1944 and 48% in 2014, with such distrust concentrated among those with lower levels of education, Leave voters, and those furthest away from Westminster geographically (IPPR, 2021).

- A distrust of politicians to prioritise voters' priorities is shared across the political divide, with 64% of Conservative and 69% of Labour voters seeing politicians as 'out for themselves' (IPPR, 2022).

- As of January 2022, 54% of people either strongly distrusted or distrusted the Prime Minister (then Boris Johnson), compared to 43% who distrusted Parliament (Renwick at al., 2022a).

Public concern and support for reform

- As of November 2021, 80% of those polled by YouGov believed there was either 'a lot' or 'fair amount' of corruption in British politics. (English, 2021).
- 51% of voters believe that 'sleaze' in government has got worse in recent years, with a general agreement across party lines that this is an issue plaguing the political system (Spotlight on Corruption, 2022).
- Almost 70% of 2019 Conservative voters are similarly concerned about the presence of corruption in government (Cowburn, 2021).
- Citizen Assembly groups coordinated by The Constitution Unit often came to the view that dissatisfaction with governance and democracy can be traced to a perceived lack of honesty and integrity. The Assembly groups produced statements referring to a "lack of honesty and integrity in politics (...) with the sleaze, scandals and incompetence of a few politicians give[ing] Parliament a bad name" (Renwick et al., 2023a).
- 29% of people believe the UK system of governance needs 'a great deal of improvement' (Renwick et al., 2023a).
- Many voters state that the health of British democracy matters as much to them as policy issues such as housing, crime and immigration, albeit less than the cost of living, economy or NHS. (Renwick et al., 2023a).
- A survey conducted in 2023 found that 89% of respondents favoured some kind of constitutional reform, with this support found across political and geographic boundaries. 31% stated that the parliamentary system needed 'complete' reform, compared to 32% who said 'some'. Just 6% backed no change at all. (Hussen, 2023).

Standards and ethics

- 52% of people agree with the statement that politicians follow 'lower ethical standards' than ordinary citizens (Renwick et al, 2023a).
- Voters consider certain attributes of parties and politicians when casting their vote, particularly competence, honesty, and leadership (The Hansard Society, 2021).
- Neither of the main two political parties perform particularly well when voters are asked to evaluate them based on their adherence to the Nolan Principles. Around 60% of those surveyed disagree that the Conservative Party does so, with 44% saying the same of the Labour Party (Survation, 2021).
- There is strong support for several reforms to the enforcement of standards. Those proposals with high levels of public support include the creation of an independent ethics commission (76%) and more powers for ethics regulators (70%), as well as the creation of a statutory ministerial code (80%), and increased independence of public appointments (74%) (Spotlight on Corruption, 2022).

Ministers and advisers

- A majority of respondents surveyed by Spotlight on Corruption believe there are 'major problems' with the current system for investigating and punishing Ministers thought to have violated the Ministerial Code (Spotlight on Corruption, 2022).
- A majority of respondents (70%) in the same survey say they have little or no faith in the way the ministerial code is currently enforced.80% support placing the ministerial code on a statutory footing (Spotlight on Corruption, 2022).

- When presented with a scenario where a government minister has 'failed' in some way (i.e. breaching the ministerial code), respondents show a preference for an independent authority to decide their fate, though there is a preference for the Prime Minister to have ultimate authority over dismissal in some cases (e.g. a Minister failing to control their department). (Renwick et al., 2022).

Sanctions for wrongdoing

- Respondents value acting honestly and within the law over delivery, with low levels of approval of rule breaking in pursuit of political objectives (Renwick et al., 2023b).

- Citizen Assembly groups held by UCL came to the conclusion that there is an 'embarrassing political culture of dishonesty and lack of serious consequences for bad behaviours' within Parliament (Renwick et al., 2023a).

- A similar statement coming from said Assembly meetings on this issue included "they get away with it [bad behaviour]– there is no reprimand. Like in other professions, if you do something wrong or like do not adhere to some standards, there is always consequences. But I feel like there is no consequences [for politicians]" (Renwick et al, 2023a).

- 74% of contributors say democracy in the UK could be improved if MPs were 'thrown out' of Parliament for lying or faced some form of consequences for their actions (Renwick et al., 2023b).

- Citizen Assembly participants in groups held by The Constitution Unit came to the conclusion that independent regulators should be able to investigate allegations of wrongdoing against MPs and ministers, with stronger action taken than at present. They rejected the view that holding politicians to account should be left solely to voters, with said regulator able to launch an investigation into wrongdoing unilaterally (Renwick et al., 2023b).

- 41% of respondents to a survey in January 2022 believed that there is a role for judges in ensuring politicians 'follow rules', compared to 27% who feel their fellow elected officials are responsible for this (Renwick et al., 2023).

- 54% of respondents surveyed by Spotlight on Corruption stated that if their MP were to vote for more stringent sanctions for those MPs found to have broken rules, they would be more likely to vote for them. This is particularly the case among those respondents who have 'left' the Conservative Party since 2019 (Spotlight on Corruption, 2022).

Transparency, lobbying and second jobs

- A majority of respondents in a survey by OpenDemocracy found that around 70% of people are concerned when presented with data showing a majority of FOI requests put to the UK government are answered without all the corresponding materials. These concerns are shared across the political spectrum, with 83% of Conservative and 76% of Labour voters agreeing with the statement that disclosure is important to democracy (Bychawski, 2021).

- A majority of voters believe cronyism in Westminster around public contracts and lobbying is an issue; 73% of survey respondents said more should be done to prevent such issues with 69% supporting more stringent rules around lobbying (Woodcock, 2021).

- 53% of voters believe those who donate to parties should not expect MPs or Ministers to engage or further their interests in return (Omnisis, 2021).

- Data by the ONS shows that a just a quarter of UK citizens believe a serving government minister would refuse a job in the private sector in exchange for a 'favour', lower than the average across OECD countries. Around two thirds believe it is unlikely that an official would refuse (Office for National Statistics, 2022).

- In a survey by IPPR in 2022 just 6% of voters believe that voters have the greatest sway over the actions of MPs and public policy, compared to half who said that political donors, businesses, and lobbyists do (IPPR, 2022).

- Data from YouGov shows there is strong opposition toward MPs working for or lobbying for private companies whilst in office. 80% of respondents said it is not acceptable for MPs to advise companies attempting to win government contract, while 63% said it is wrong for them to 'strategically advise' companies. 77% said MPs should not advise on how to lobby Parliament (English, 2021).

- Qualitative research by the CSPL found that the public have little tolerance for MP and Ministerial conflicts of interest and believe there should be clear and strict rules around parliamentary lobbying (CSPL, 2018).

- A survey by YouGov in 2021 found general opposition to second jobs for MPs, particularly on allowing MPs to work for foreign governments (67% oppose). There are more divided opinions on other professions, such as working as a barrister (35% acceptable versus 40% unacceptable), after dinner speaker (35%:40%) or a local councillor (36%:37%) (English, 2021).

- In the aftermath of the Patterson saga, 39% of voters believed that additional employment for MPs should be permitted in specific circumstances, such as the NHS or legal profession (Ibbetson, 2021).

HOLAC and Honours

- The current appointment system to the House of Lords lacks public support, with just 6% of those surveyed supporting the current procedure. 58% support an independent body to appoint new members, including half of those who voted Conservative in 2019 (Renwick et al., 2022).

- The majority of voters in a survey by Omnisis agreed that those who donate to political parties should not be rewarded with honours or access to government ministers (72%) (Omnisis, 2021).

- Polling by the Electoral Reform Society found that only 7% of people supported Johnson's use of political appointments upon resignation, as of March 2023. This was a decrease from 13% in the immediate aftermath of his resignation in July 2022 (Hughes, 2023).

- 61% of voters oppose Boris Johnson being given the opportunity to issue resignation peerages, up from 50% in May 2019 (Hughes, 2023).

- When asked by Savanta, most voters were opposed to the offer of a knighthood to Boris Johnson's father, with 14% backing the proposal compared to 65% opposed. (James, 2023).

- Over half of those surveyed in March 2023 believed the honours system as it exists should be scrapped, compared to the 37% who believe the Prime Minister should reserve the right to offer orders and medals (James, 2023).

Executive power

- In a survey conducted by The Constitution Unit in 2022, 47% of respondents said it was unacceptable for a leader to not engage with Parliament, while 57% said it was unacceptable that a leader be considered 'above the law'. (Renwick et al.., 2023a).

- 78% of people believe that, where there is a trade-off, the Prime Minister should prioritise acting within the rules over 'getting things done'. (Renwick et al., 2023b).

- In Citizens' Assembly groups organised by The Constitution Unit, respondents express a preference for power in the political system to not be concentrated (i.e., with the Prime Minister and Cabinet) but diffused, with some constraints placed on executive power (Renwick et al., 2022).

- Polling conducted by YouGov in 2020 found that over a quarter of voters wanted the Prime Minister to have less power (Dinic, 2020a).

- Survey data and citizen assembly groups conducted by The Constitution Unit found that there is a strong element of public opinion which believes Parliament should play a stronger role in policymaking and scrutiny than it does at present, having greater control over its agenda and timetable, and scrutinising all changes to the law. 47% say Parliament should be strengthened so ministers' proposals are more carefully scrutinised (Renwick et al., 2023b).

The Civil Service

- There has been a consistent rise in faith in the ability of the UK civil service since 1981, particularly between 2009-2018, in line with other European nations. As of March 2023, around 49% of people express faith in the Civil Service in Britain, with the UK ranking 14 out of 23 countries in the World Values Survey on this measure (The Policy Institute, 2023).

- In 2022 the ONS found similar levels of trust in the Civil Service among the British public, with 55% expressing faith (Office for National Statistics, 2022).

- As of 2020, 51% of voters believed the Civil Service was 'running well', compared to 26% who believed it was not (Dinic, 2020a).

- 60% of people believe that the Civil Service should be neutral and permanent as opposed to being appointed by the government of the day. The support for this kind of Civil Service is consistent regardless of other political preferences (Renwick et al., 2022).

ACoBA

- 66% of respondents to a survey run by Spotlight on Corruption believe that ACoBA should be given stronger sanctioning powers (Spotlight on Corruption, 2022).

Elections

- Polling conducted by YouGov after the 2019 election showed that most voters have confidence in the fair running of elections and counting of ballots in UK elections, with over 60% believing there are few restrictions on the ability of candidates and activists to campaign freely (Dinic, 2020b).

REFERENCES

Renwick, A., Lauderdale, B., and Russell, M. (2023a). The Future of Democracy in the UK**. The Constitution Unit.**

A summary of the Constitution Unit is work on public attitudes to democracy in the UK since 2021, including a citizens' assembly and two large scale quantitative surveys. The work considers the 'type' of democracy British citizens want to exist and their views of governing institutions. This report compiles this research in its entirety to conclude some key themes about public attitudes to democracy, Parliament, and Government.

The Policy Institute. (2023). UK has internationally low confidence in political institutions, police and press.

King's College London. The Policy Institute at King's College London undertook polling across 28 countries (including 3000+ people in the UK) exploring the faith of individuals in their national institutions such as government, the legislature, police and national broadcaster, amongst others. This article considers some key findings which are of interest in the context of the Commission's Recommendations, in a comparative context.

Renwick, A., Lauderdale, B., Russell, M., and Cleaver, J. (2023b). Public Preferences for Integrity and Accountability in Politics. **The Constitution Unit**.

Research by University College London in March 2023, which found that most voters believed stronger mechanisms to ensure politicians follow codes of conduct are needed, with stronger sanctions for those who do not. The survey found support for a stronger, independent regulator to monitor ministerial wrongdoing.

Hughes, D. (2023). Polling shows 61% oppose Boris Johnson's resignation peerages. **The Electoral Reform Society.**

Polling conducted by the Electoral Reform Society, finding low levels of support for Boris Johnson's use of political appointments.

Hussen, D.A. (2023). Britons' trust in politics has fallen significantly since Covid, report finds**. The Guardian.**

A write-up of a FocalData survey of 8000 people for IPPR, which showed that distrust in the political system has significantly increased since the onset of the pandemic, with 89% of respondents now supporting constitutional reform.

James, L. (2023). Just 14% of people think Stanley Johnson should get a knighthood, poll shows. **The Independent.**

A write-up of a poll by Savanta on the honours system.

Lelii, M. (2022). Trust in government, UK. **The Office for National Statistics**.

Data collected by the ONS on trust in government in comparative context, with other OECD countries.

Renwick, A., Lauderdale, B., Russell, M. and Cleaver, J. (2022). What Kind of Democracy do People Want?**The Constitution Unit.**

A series of surveys (6,500 people) and a Citizens Assembly group conducted by the UCL Constitution Unit in 2021, focusing on what voters want from their government and leaders and perceptions of democracy.

Bruce, D. (2022). Public trust in politics is at record lows- overhauling the rules is the only way to turn things around. **Transparency International.**

A blog post for Transparency International, arguing that enforcement of standards via changes to the Ministerial Code and Independent Adviser on Ministerial interests could help to tackle the issue of voter apathy and disengagement. The post states that reforms would help to prevent further scandals such as Greensill and reinforces the idea that those in public office should be focussed on representation as opposed to acting on behalf of private interests. The ultimate proposal is a reform on the scale of the introduction of the Nolan Principles in the 1990s.

IPPR. (2022). Revealed: Trust in politicians 'in free fall' after 'year of chaos', poll reveals**. IPPR.**

Research for IPPR by YouGov, comprising of a survey of 1700 adults in November 2022, which found that public trust in politicians had fallen by almost 9% compared to the position 18 months earlier, with two-thirds of voters saying politicians are 'out for themselves'.

Spotlight on Corruption. (2022). New polling reveals huge public support for raft of reforms to improve standards in public life. **Spotlight on Corruption.**

Polling commissioned by Spotlight on Corruption, which found that large numbers of voters wished to see reform to standards in public life; this feeling was strongest amongst Conservative 2019 voters who no longer supported the party.

Bychawski, A. (2021). 70% of public concerned by UK government secrecy**. Open Democracy Foundation.**

The Open Democracy Foundation highlights concern among voters around government transparency, particularly in terms of responses to Freedom of Information requests and declarations of interest.

IPPR, 2021. Revealed: Trust in politicians at lowest level on record. **IPPR.**

A poll and accompanying report by YouGov and IPPR, suggesting that recent 'sleaze' scandals have had a significant impact on political trust, with a particular rise in the number of those believing politicians are "out for themselves" (57%). The report concludes that declining trust can lead not only to disengagement, but greater polarisation between voters, and that institutional reform is necessary to prevent further decline.

Omnisis. (2021). 72% of voters are against the award of peerages and honours following political donations. **Omnisis.**

A survey summary of a poll conducted by Omnisis for the ByLine Times on political honours. The resulting findings show that a majority of voters believe those who donate to parties should not be rewarded with honours or access to government officials.

Cowburn, A. (2021). Three quarters of public concerned about corruption in government, poll shows**. The Independent.**

A write-up of a poll conducted by Savanta on public trust and faith in government in the aftermath of the Patterson scandal.

Woodcock, A. (2021). Sleaze poll finds overwhelming public demand for action on lobbying and cronyism. **The Independent.**

Write up of a poll conducted by Find Out Now for the Independent on public trust and faith in government in the aftermath of the Patterson scandal.

English, P. (2021). What kind of second jobs should MPs be allowed to have? **YouGov.**

A survey by YouGov in 2021, which found general opposition to some (but not all) kinds of second jobs for MPs. General consensus is found against allowing MPs to work where there may be a conflict of interest (e.g., for a foreign government or for a corporation) but more tolerance if this is for a public service (e.g., NHS doctors).

Survation. (2021). Polling the Nolan Principles: The Public's take on ethical standards in public life. **Survation.**

Polling for Survation, showing that almost 60% of voters do not believe the current government upholds the principles of integrity or honesty, including almost half of 2019 Conservative voters.

Ibbetson, C. (2021). Second jobs and sleaze: What do Britons make of a murky week in Westminster? **YouGov.**

Polling for YouGov in the aftermath of the Patterson saga, which showed that two fifths of the public thought that second jobs for MPs should not be permitted, with 39% believing additional employment should only be permitted in specific circumstances.

Dinic, M. (2020b). Democracy and the election process: what Britons think about UK elections. **YouGov.**

YouGov polling after the 2019 election, which showed that most voters had confidence in the fair running of elections and counting of ballots in UK elections, with over 60% believing there are few restrictions on the ability of candidates and activists to campaign freely.

Committee on Standards for Public Life. (2018). MPs' outside interests- testing public expectations. **Committee on Standards in Public Life.**

Qualitative research carried out by the CSPL on conflicts of interest in transparency, which found that the public have little tolerance for conflicts of interest and believe there should be stricter reforms on second jobs for MPs and parliamentary lobbying.

The Hansard Society (2018). How important do voters think competence and leadership are when choosing a political party? **The Hansard Society.**

An experiment by the Hansard Society exploring how much voters consider certain attributes when casting their vote, demonstrated the importance of competence, (and the increasing belief that those who hold high office should possess this quality), as well as other attributes such as honesty and leadership.

Comments on these proposals, whether from press, the public, academic or other interested parties would be welcome directly to the Commission by email to:

contact@ukgovernanceproject.co.uk