

Fourth Report: Committee on Standards in Public Life

Government Action Plan

The attached Action Plan has been drawn up to record the Government's comments on the observations contained in the Fourth Report of the Committee on Standards in Public Life, together with the action planned in response to the observations. The Prime Minister wrote to Lord Nolan on 5 December 1997 welcoming the Report. He said that the Government would follow up the areas where the Committee had expressed concerns, and would prepare an Action Plan showing how this would be done.

The Fourth Report, published in November 1997, reviews progress on the implementation of the Committee's recommendations, made in their First and Second Reports, about executive non-departmental public bodies (NDPBs), NHS bodies, and local public spending bodies. The Committee's First and Second Reports did not extend to Northern Ireland. However, for most areas, parallel arrangements are in place, or are planned, for those bodies operating in equivalent sectors in Northern Ireland. The precise arrangements in Northern Ireland may differ in some respects from those applying in Great Britain to take account of the Province's local circumstances, but they will accord fully with the principles underlying the arrangements put in place elsewhere in the United Kingdom.

A key recommendation of the Committee's First Report was the appointment of an independent Commissioner for Public Appointments to monitor, regulate and provide advice on departmental appointment procedures for Ministerial appointments to executive NDPBs and NHS bodies. Sir Leonard Peach was appointed as the first Commissioner for Public Appointments in December 1995. In April 1996, the Commissioner issued his Code of Practice for Public Appointments Procedures, and accompanying Guidance. In the light of departments' experience in operating the Code, the observations in the Committee's Fourth Report, and recommendations contained in the First Report of the Select Committee on Public Administration, on Public Appointments, the Guidance is being revised. Most of the observations in the Fourth Report which are specific to executive NDPBs and NHS bodies, relate to aspects of public appointments procedure, and the Government expects that they will be covered in the revised Guidance when it is issued in the summer.

In its consultation document '*Opening Up Quangos*', published in November 1997, the Government set out its proposals to extend as appropriate to advisory NDPBs, many of the management controls which have been endorsed as good practice by the Committee on Standards in Public Life, but which currently apply only to executive NDPBs. Proposals include the limited extension of the remit of the Commissioner for Public Appointments to cover advisory NDPBs, extension of the application of board members' codes and registers of interest selectively to advisory NDPBs, production of publicly available annual reports, and, where practicable, meetings held in public.

The Committee's Second Report on local public spending bodies included the grant-maintained (GM) schools sector. The Government has since announced that the authority responsible for this sector, the Funding Agency for Schools, is to be wound up in 1999, and that GM schools will thereafter be maintained by Local Education Authorities as community, voluntary or foundation schools. Governance arrangements for all types of school are set out in the School Standards Framework Bill. GM schools have not, therefore, been included in the Government's comments on those observations which the Committee identified as common themes applicable to all those bodies covered in the First and Second Reports. However, it should be noted that the Bill incorporates for all schools, relevant recommendations from the Committee's Second Report, such as a four year term of office for school governors, a new statutory complaints procedure, and more flexible subsistence arrangements.

An explanation of the abbreviations used in the Action Plan to identify the various sectors covered by each observation is set out below. In making their observations, the Committee identified a number of issues which are common to all sectors covered in the first and second reports. In the Action Plan, these observations are shown as covering "All Bodies".

Abbreviations used in the Government Action Plan

ENDPB	Executive non-departmental public body
FE	Further Education
HE	Higher Education
LEC	Local Enterprise Company
NHS	National Health Service
RHA	Registered Housing Association
RSL	Registered Social Landlord
TEC	Training and Enterprise Council
All Bodies	ENDPBs, NHS Bodies, local public spending bodies ENDPBs, NHS Bodies, local public spending bodies (ie FE Institutions, HE Institutions, TECs, LECs, RHAs, and RSLs)

Observation	Bodies Covered by Observation	Comment and Action

<p>1. <i>Departments and executive NDPBs should exercise some discretion so that advertisement of posts complements other methods available to identify a wide field of candidates: advertisement should not be the only vehicle for appointments.</i></p>	<p>ENDPBS</p>	<p>The Commissioner for Public Appointments is working on revised guidance which is expected to include a strengthened and expanded section on the use of advertising, and to clarify the factors to be taken into account when deciding whether or not a post should be advertised.</p>
<p>2. <i>It is essential that Departments and executive NDPBs should apply the principle of proportionality to the appointments procedure. Any advice and guidance the Commissioner for Public Appointments can give in this respect would be most welcome. It is, nevertheless, important that correct procedures are adhered to, and that appointments are made on merit. Proportionality should not be an excuse for sloppy procedures.</i></p>	<p>ENDPBS</p>	<p>Proportionality is one of the seven Principles on which all appointments must be based. In his Second Annual Report published in July 1997, the Commissioner for Public Appointments accepted that proportionality has probably been the most difficult Principle for departments to interpret. It is expected that the Commissioner's revised guidance will include strengthened and expanded advice on proportionality which stresses the importance for departments to consider whether the proposed approach is proportionate to the status and responsibilities of the post concerned.</p>
<p>3. <i>We would like to see greater consultation between executive NDPBs and their sponsoring Departments when defining the tasks and qualities sought for all public appointments.</i></p>	<p>ENDPBS</p>	<p>The Commissioner for Public Appointments' revised guidance is expected to highlight the value of early consultation between the sponsor department, and the Chairman of the body concerned.</p>
<p>4. <i>The Commissioner for Public Appointments should look again at the definition of 'political activity' to see whether it includes all 'significant' political activity.</i></p>	<p>ENDPBS NHS Bodies</p>	<p>The Commissioner for Public Appointments has conducted a research project involving a variety of questions interpreting 'political activity', with the object of testing their effectiveness in identifying such activity, and is expected to reflect the results of the research in his guidance.</p>
<p>Observations 5,17, and 22 concern 'whistleblowing',</p>	<p>All Bodies</p>	<p>All sectors covered in the First and Second Nolan Reports have taken, or are taking, steps to</p>

which is identified in the Fourth Report as a common theme. For convenience, comments have been grouped together.

5. It is important that all departments, executive NDPBs and NHS bodies should institute codes of practice on whistleblowing, appropriate to their circumstances, so as to enable concerns about malpractice to be raised confidentially inside, and, if necessary, outside the organisation.

17. Representative bodies should ensure that whistleblowing procedures are in place within institutions and allow staff appropriate external avenues in which to raise concerns about malpractice.

22. All organisations should re-examine their arrangements for publicising codes of practice, and whistleblowing arrangements, to ensure that staff are left in no doubt about these.

ensure that appropriate arrangements are in place to enable staff in the bodies concerned to raise, confidentially, concerns about propriety. In addition, the Government supports the provisions contained in the Private Members' Bill on Public Interest Disclosure which is currently before Parliament. 'Whistleblowing' arrangements for the specific sectors covered in the First and Second Reports are as follows:

ENDPBs: Mandatory codes of practice for staff based on the 'Model Code for Staff of Executive NDPBs', issued by the Cabinet Office (OPS), contain provisions for dealing with staff concerns about improper conduct.

NHS Bodies: Codes of conduct and other guidance documents issued to boards of NHS bodies contain a requirement for members to ensure that proper procedures exist for staff to voice complaints and raise concerns.

TECs: The TEC National Council and the Council of Welsh TECs have issued best practice guidance for TECs to use when reviewing complaints procedures, and introducing codes of practice on 'whistleblowing'. TECs plan to introduce 'whistleblowing' procedures in due course.

LECs: Scottish Enterprise and Highlands and Islands Enterprise have introduced staff codes which include 'whistleblowing' procedures for their own and LEC staff.

RSLs/RHAs: The Housing Corporation and Tai Cymru have issued guidance requiring RSLs to have appropriate procedures in place to enable staff to raise concerns about issues of propriety or probity. Scottish Homes will issue guidance for housing associations in May 1998.

FE Institutions: In England and Wales, any member of staff has recourse to the Secretary of State, who has power to intervene where there is mismanagement, breach of duty, or unreasonable conduct by the governing body. The Association of Colleges has issued guidance on 'whistleblowing'. In Scotland, the

		<p>Association of Scottish Colleges recently issued guidance on a range of governance issues, including ‘whistleblowing’.</p> <p>HE Institutions: In England and Wales, the Committee of University Chairmen is revising its good practice guidance and will consider provision for external avenues of complaint. In Scotland, the Scottish Higher Education Funding Council will include relevant matters in revised guidance for governors and a code of best practice, which it plans to issue in the summer of 1998.</p> <p>The Government will ensure that the bodies concerned in each of the above sectors are asked to review their arrangements to make sure that staff are well aware of the procedures.</p>
<p>6. <i>NHS Trusts should have a degree of flexibility to appoint candidates who work within the area served by a particular NHS Trust, but who live outside that area, provided the appointment can be justified in public.</i></p>	NHS Bodies	<p>Ministers already have flexibility to appoint people who do not live in the area served by a particular Trust. Government believes that such appointments should remain exceptional. NHS Trusts, Health Authorities and Boards primarily serve local people, and it is appropriate that they should be represented.</p>
<p>7. <i>The rule that re-appointments to the same post should not be automatic should be clarified so that Departments and executive NDPBs are aware that candidates for re-appointment do not have to undergo the whole appointment system.</i></p>	ENDPBS	<p>Commissioner for Public Appointments is working on revised guidance which is expected to clarify the procedures for re-appointments.</p>
<p>8. <i>All executive NDPBs and NHS Trusts should consider holding an annual public meeting.</i></p>	ENDPBS NHS Bodies	<p>The recent Government consultation paper ‘<i>Opening up Quangos</i>’ includes a proposal that, where practicable, NDPBs should hold meetings in public. All NHS Trusts, Health Authorities, Scottish Health Boards and most Special Health Authorities hold all board meetings in public. NHS Trusts and other Special Health Authorities also hold an annual public meeting.</p>

<p>9. <i>The funding and regulatory bodies should monitor and report on ways in which good standards of conduct are communicated to staff, and understood by them.</i></p>	<p>FE and HE Institutions in England, Scotland and Wales</p>	<p>The Government will ensure that this issue is raised with the FE and HE funding authorities and associations operating in these sectors, and ask them to strengthen guidance in this area. In Scotland, the Scottish Higher Education Funding Council will include guidance on the communication of good standards of conduct to staff in revised guidance for governors and a code of best practice, which it plans to issue in the summer of 1998.</p>
<p>10. <i>The bodies responsible for institutions within the further education sector should look again at the recommendation which proposed a system of independent review of disputes.</i></p>	<p>FE Institutions in England, Scotland and Wales</p>	<p>The Government will ask the FE funding authorities and associations to reconsider arrangements in the FE sector in the light of this observation. In Scotland, the Association of Scottish Colleges plans to commission a review of complaints procedures in Scottish further education colleges. Results are expected before the end of 1998.</p>
<p>11. <i>Responsibility for TECs should be delegated to Government Offices for the Regions so as to allay fears of ineffective management and accountability caused by the distance between Government and the client.</i></p>	<p>TECs in England</p>	<p>Government Offices for the Regions manage relations with TECs on a day to day basis. The ten Government Offices are accountable to the Secretaries of State of DfEE, DETR, and DTI and are, in effect, the regional arm of central Government for those departments.</p>
<p>12. <i>The Government should undertake an urgent review of the audit procedures within TECs and LECs, in consultation with the relevant funding and regulatory bodies.</i></p>	<p>TECs in England and Wales, LECs in Scotland</p>	<p>DfEE are undertaking a review to reduce unnecessary bureaucracy in audit systems which is expected to result in improved co-ordination between systems.</p>
		<p>The Welsh Office established a working party including representatives from Welsh TECs, the National Audit Office, and selected private sector auditors, to review audit procedures and streamline them wherever possible. Revised procedures will be introduced in 1998-99.</p> <p>The Scottish Office are in discussion with Scottish Enterprise and Highlands and Islands Enterprise about options for LEC audit arrangements in the light of the Committee's recommendations and a recent report by the</p>

		National Audit Office on financial management within the Scottish Enterprise network.
13. <i>The TEC National Council should devise suitable complaints procedures and ensure compliance by TECs in England and Wales.</i>	TECs in England and Wales	In England, The TEC National Council reviewed its Local Accountability Framework for TECs in the light of the Committee's recommendations, and have launched a revised version of the Framework which sets out that dealings with customers should be on the basis of openness and high quality service, with a robust complaints procedure, which includes an independent external avenue for complainants. The Council of Welsh TECs is producing a separate Welsh version which will make compliance with the Framework, including a robust complaints procedure, a requirement under the terms of the department's contract with TECs.
14. <i>The funding and regulatory bodies should encourage more openness within TECs and LECs, and should monitor and report on the situation.</i>	TECs in England and Wales, LECs in Scotland	<p>The Government is committed to greater openness and transparency in the delivery of public services. TECs will be included within the scope of the Government's proposed Freedom of Information (FOI) Bill. (It will be for the new Scottish Parliament to determine FOI arrangements for LECs.)</p> <p>The Government's contract with TECs in England and Wales requires them to adhere to the principles set out in the Local Accountability Framework which has been revised recently to incorporate greater openness and transparency in TECs' work generally. In addition, and in line with the recommendation in the Committee's Second Report, Government Offices for the Regions and the Welsh Office will be publishing annual reports on the performance of TECs in their areas from 1998.</p> <p>In Scotland, Scottish Enterprise has instituted revised arrangements, through codes and other systems, for promoting more openness on the part of LECs, and will monitor progress. Highlands and Islands Enterprise has complemented its 1994 'Accountability through Openness' policy by the introduction, in 1997, of an 'Appointability through Openness' policy to ensure an open and objective system for LEC directors' appointments.</p>

<p>15. <i>The Government should extend the Housing Ombudsman's jurisdiction to allow him to address complaints against Registered Social Landlords from neighbours.</i></p>	<p>RSLs in England</p>	<p>The Government is committed to tackling problems created by anti-social behaviour in all tenures. The Housing Corporation will be issuing guidance to RSLs later this year to ensure that appropriate procedures are in place for dealing with complaints about nuisance behaviour, including complaints made by neighbours who are not tenants.</p> <p>The independent Housing Ombudsman Scheme came into effect on 1 April 1997. The Ombudsman has indicated that he wants more experience of applying the Scheme in practice before proposing any amendments. The Ombudsman will wish to consult widely on the Committee's proposal, and the Government will consider the issues raised in the light of consultation responses.</p>
<p>16. <i>The Government should establish an independent Housing Ombudsman for Wales at the earliest opportunity.</i></p>	<p>RSLs in Wales</p>	<p>A decision about the establishment of an independent Housing Ombudsman for Wales has been deferred pending the election of the new Welsh Assembly which will have responsibility for Housing after devolution.</p>
<p>18. <i>Responsible departments should disseminate guidance on good practice about payment of expenses of board members.</i></p>	<p>All Bodies</p>	<p>The Government is committed to ensuring that appropriate guidance on general principles and best practice is available to all bodies. The Fourth Report specifically highlighted a lack of such guidance in the FE sector. DfEE have issued further guidance on the payment of expenses to FE governors.</p>
<p>19. <i>All members of boards, whether elected or appointed, should be appointed for fixed terms, and such terms should not normally exceed four years.</i></p>	<p>All Bodies</p>	<p>The length of appointments will vary depending on the nature of the post concerned, and the depth of experience and skills demanded for the job. The Commissioner for Public Appointments' revised guidance is expected to state that the average term of appointment should be between three and five years in order to provide a degree of flexibility; that appointments of less than three years should be avoided unless there are special circumstances; and that the maximum period of service in one post should be between six to ten years.</p>
<p>20. <i>It is important that rules governing conflicts of interests are introduced</i></p>	<p>All Bodies</p>	<p>Government recognises the importance of robust and comprehensive rules governing conflicts of interest. Central rules and guidance documents</p>

across all sectors considered in this report.

are in place in all the sectors covered in the Committee's First and Second Reports as follows:

ENDPBs: Rules governing conflicts of interest are incorporated into the individual codes of conduct for board members and staff of ENDPBs. The codes for board members are based on the '*Guidance on Codes of Practice for Board Members of Public Bodies*' and the staff codes are based on the '*Model Code for Staff of Executive Non-Departmental Public Bodies*'. Both model codes are issued by the Cabinet Office (OPS).

NHS Bodies: Codes of Accountability and other guidance documents issued to NHS Boards contain rules on the handling of conflicts of interest.

TECs: Rules governing conflicts of interest are covered in the Government's contract with TECs in England and Wales.

LECs: Scottish Enterprise and Highlands and Islands Enterprise issue detailed rules and procedures relating to the handling of potential conflicts of interest in LECs.

RSLs/RHAs: The Housing Corporation and Tai Cymru issue guidance requiring RSLs to have clear codes of conduct for staff and board members, which include rules on conflicts of interest. In Scotland, the Scottish Federation of Housing Associations has recently issued a revised code of conduct for housing association committee members, covering conflicts of interest. Scottish Homes plans to issue similar guidance for housing association staff by the end of 1998.

FE Institutions: In England and Wales there is a statutory requirement for any person with a financial role within an FE institution to declare any financial interests, and any possible conflicts

		<p>of interest. Consultation is in progress on whether more stringent legal requirements should be introduced. In Scotland, the Association of Scottish Colleges has issued guidance on registers of interests.</p> <p>HE Institutions: In England and Wales, the Committee of University Chairmen has revised and strengthened its advice and guidance on the handling of potential conflicts of interest. In Scotland, the HE institutions have developed codes of practice or handbooks, including registers of interests, for members of their governing bodies.</p>
<p><i>21. The funding and regulatory bodies should standardise governance information within annual reports in all sectors covered by this report.</i></p>	<p>All Bodies</p>	<p>The Government is committed to greater openness and transparency in all public bodies. The provision of high quality information through publicly available annual reports is an essential element in this process. Sector-specific guidance is issued covering areas where a consistent approach to the provision of information for inclusion in annual reports is necessary or desirable. For example, central guidance on the production of annual reports and accounts is issued for ENDPBs. Due to the diversity of bodies involved, even within specific sectors, the Government believes that it is inappropriate to impose rigid single reporting systems.</p>