

Michael Macaulay

Looking Back and Looking Forward at the UK Committee for Standards in Public Life: does it offer a model for New Zealand?

Do recent events such as the controversies over Sky City, election funding, ministerial expenses and so on raise questions about the standards of behaviour demanded of New Zealand's public figures? If so, are there lessons that can be drawn from elsewhere about how to monitor and anticipate risks to public integrity? Perhaps one instructional example can be found in the United Kingdom's Committee for Standards in Public Life (CSPL).

In January 2013 the CSPL published *Standards Matter: a review of best practice in promoting good behaviour in public life*, which looked at the difference the CSPL had made to nearly 20 years of British public life. Without question it can point to a number of substantial achievements. Its recommendations have led to new integrity regimes for ministers and MPs, lords and civil servants. It helped to create an entirely new standards framework for local government. The CSPL was instrumental in establishing the Office for the Commissioner for Public Appointments, which oversees recruitment to arm's-length organisations and non-government departmental bodies. Perhaps most impressively, the CSPL can rightly lay claim to having crafted the most substantial reforms of the electoral system and political party funding in living memory.

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Between 2012 and 2013, however, the CSPL was also subject to a review by the Public Administration Select Committee, in which several commentators suggested that perhaps its time had come. Some suggested that there was simply not enough work for it to do, and while it is true to suggest that its output may have dropped somewhat in recent years, such an opinion seems unusual when set against the almost continual political scandals of recent years: party funding;

response to charges of corruption and sleaze against his own government. By the mid-1990s the UK Conservative government was beset by scandals and allegations of corruption, particularly regarding the sex lives of ministers and MPs, and the pursuit of private interests through lobbying, culminating in the 'cash for questions' scandal. Yet even in the years prior to this there had been an increased concern among politicians and political commentators that standards of

of sexual exploits, so that the campaign might perhaps more appropriately have been labelled *Basic Instincts*.

Although such hijinks caught the public imagination, of much greater significance was the simultaneous emergence of a number of high-level financial scandals. The parliamentary private secretaries Graham Riddick and David Tredinnick were suspended in 1994 following allegations that they had been prepared to accept £1,000 to table parliamentary questions. A few months later, in October 1994, Neil Hamilton (minister for corporate affairs) and Tim Smith (minister for Northern Ireland) were alleged to have received payments and other benefits in connection with Mohamed Al-Fayed, the owner of Harrods, directly and through a lobby firm led by Ian Greer. An internal inquiry was undertaken by the cabinet secretary, during which both Greer and Hamilton issued writs. While Hamilton denied the allegations, Smith agreed that he had accepted money and resigned. Hamilton was forced to resign later the same day by the prime minister, who announced within days the establishment of the Committee on Standards in Public Life, to be chaired by Lord Nolan.

The CSPL's original terms of reference were:

to examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and to make any recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life. (CSPL, 1995, p.2)

For the purposes of the CSPL's terms of reference, 'holders of public office' referred to a number of categories, including ministers, civil servants and special advisers; members of Parliament and members of the European Parliament; members and senior officers of non-departmental public bodies and National Health Service bodies; non-ministerial office holders; members and senior officers of other bodies responsible for spending public money; and elected members and

Prime Minister Tony Blair added ... 'to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements'.

lobbying; and, perhaps most famously, the MPs' expenses scandal. Others suggested that a new system be established, in which 'a college of regulators' could oversee enquiries in a more systematic and synthesised way (Riddell, 2013).

This article will briefly offer an overview of the CSPL, the reason it was created and the work it has achieved. It will then look at some recent criticisms, and will draw on the latest review to look at its possible future role. It will conclude by asking whether or not such a body would be useful to public life in New Zealand, and if so how it could be established.

Foundations and first steps

The CSPL is an advisory non-departmental public body (NDPB) sponsored by the Cabinet Office. It has ten members: one member each is nominated by the Conservative, Labour and Liberal-Democrat parties; the remaining seven members (including the chair) are independent. The CSPL was originally chaired by Lord Nolan, and was subsequently led by Lord Neill, Sir Nigel Wicks, Sir Alistair Graham and (until earlier this year) Sir Christopher Kelly. It was established in 1994 by Prime Minister John Major as a direct

conduct were not what they should be. The parliamentary Select Committee on Standards and Privileges, for example, produced three separate reports in 1991 and 1992 relating to a whole host of issues: MP conflicts of interest; select committee membership; parliamentary lobbying; and the registration and declaration of MPs' financial interests. Tellingly, some of these issues remain as pertinent as ever.

The select committee reports were regarded as of the utmost importance and were produced in order to deflect behaviour away from possibly criminal activities:

the intervention of the criminal law, the police, the law and the courts of law in matters so intimately related to the proceedings of the House would be a serious and in our view regrettable development, and would have profound constitutional implications. (Doig, 1996)

These concerns coincided, of course, with Major's doomed call for a return to family values, known as the 'Back to Basics' campaign, launched to considerable fanfare in October 1993. Almost immediately a number of (predominantly Conservative) MPs and junior ministers were exposed in a variety

senior officers of local authorities. On the appointment of its new chair, Lord Neil, in November 1997, Prime Minister Tony Blair added the following terms of reference: ‘to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements’. It should be noted that, as with Major before him, Blair’s terms of reference were a direct response to the first scandal of his prime ministership: the alleviation of a ban on tobacco sponsorship for Formula One racing which had coincided with a £1 million donation from Bernie Ecclestone, the president and chief executive officer of Formula One Management, to New Labour prior to the 1997 election.

Since its inception, then, the CSPL has had powers to make recommendations for change, but it has never had powers of enforcement. It is, however, free to open an inquiry into any area within its terms of reference, but this must be agreed with the prime minister. The extent to which this may place a restriction on the CSPL’s independence is a matter that will be discussed below.

The work of the CSPL

Perhaps the most famous, and lasting, contribution of the committee remains the seven principles of public life (still commonly referred to as the Nolan principles after its first chair). These principles are still in use throughout the UK and consist of: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership. In 2013 the descriptors for these values were slightly altered to refresh people’s understanding of the principles (see Table 1).

Concern remains, however, not least within the committee itself, that these principles, though widely understood, have still not been properly integrated into many public organisations. As the latest CSPL report suggests:

Ethical standards should be deeply embedded in governance and other organisational processes so that they become an integral part of ‘the way things are done around here’ and so that individual behaviour which does not meet those standards is challenged. (CSPL, 2013, p.8)

Table 1: The principles of public life 1995–2013

The 1995 principles of public life	The 2013 principles of public life
Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.	Selflessness – Holders of public office should act solely in terms of the public interest.
Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.	Integrity – Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.	Objectivity – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.	Accountability – Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.	Openness – Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.	Honesty – Holders of public office should be truthful.
Leadership – Holders of public office should promote and support these principles by leadership and example.	Leadership – Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The committee has held 13 public inquiries (see Table 2), and has also conducted three public trust surveys, and provided numerous responses to other issues as and when they have arisen.

Without question, recommendations from the initial reports led to substantial reforms. From the 55 recommendations in the first report, for example, arose codes of conduct for ministers and MPs and the

creation of the offices of Parliamentary Commissioner for Standards and Privileges and Commissioner for Public Appointments, and the Select Committee on Standards in Public Life.

In terms of ministerial rules and procedures, the report made 20 recommendations which largely became enshrined in a new ministerial code of conduct. Until the code came into

Table 2: CSPL reports 1995–2013

Date	No	Title
May 1995	1	Standards in Public Life
May 1996	2	Local Public Spending Bodies
July 1997	3	Standards of Conduct of Local Government in England, Scotland and Wales
Nov 1997	4	Standards of Conduct in Executive NDPBs, NHS Trusts and Local Public Spending Bodies
Oct 1998	5	The Funding of Political Parties in the United Kingdom
Jan 2000	6	Reinforcing Standards: a review of the first report of the Committee on Standards in Public Life
Nov 2000	7	Standards of Conduct in the House of Lords
Nov 2002	8	Standards of Conduct in the House of Commons
Apr 2003	9	Defining the Boundaries within the Executive: ministers, special advisers and the permanent civil service
Jan 2005	10	Getting the Balance Right: implementing standards of conduct in public life
Jan 2007	11	Review of the Electoral Commission
Nov 2009	12	MPs' Expenses and Allowances: supporting Parliament, safeguarding the taxpayer
Jan 2013	13	Standards Matter: a review of best practice in promoting high standards of behaviour in public life

force in 1997, rules regarding ministers' conduct had been developed on an ad hoc basis over a 40-year period. The new code also established rules on conflicts of interest, gifts and hospitality, and post-ministerial business appointments, including establishing that ministers must now consult the Advisory Committee on Business Appointments if they wish to take up a paid business appointment within two years of leaving office. All of these rules and regulations were revisited in CSPL's sixth report, which amended the wording of the code to strengthen individual ministerial responsibility, even after a minister has accepted the advice of his or her permanent secretary.

The committee's first report also made 11 principal recommendations (alongside numerous sub-recommendations) regarding the standards of conduct of members of Parliament, including establishing a

code of conduct (which was adopted in July 1995); strengthening the registers of interest that were established in 1975; passing a resolution to prevent MPs acting as paid lobbyists; and, perhaps most significantly, setting up a new independent office to oversee parliamentary standards, the Parliamentary Commissioner.

One of the most significant of the CSPL's recommendations was the creation of an oversight and scrutiny body for non-departmental public bodies, the Office of Commissioner for Public Appointments (OCPA), which was formally established on 23 November 1995. The OCPA is independent of government, and is responsible for regulating, monitoring and reporting appointments of Ministers to public bodies. The 1995 CSPL report also recommended that non-departmental public bodies should keep a register of members' interests.

The third report, on local government, made 39 recommendations, almost all of which were included in the Local Government Act 2000. The report was conducted on the back of increased concern regarding local government by the late 1990s, after public confidence had been undermined by a small number of particularly high profile cases. A police investigation into Doncaster Metropolitan Council, for example, yielded 35 prosecutions in a number of key areas: expense/subsistence claim payments; tendering and contracts; planning (land deals and planning permission/bribery and corruption); and council partnerships with large building developers. The CSPL report found that although such cases were very severe, they were not widespread, and in general it concluded that local government had good standards of conduct. Its recommendations included the adoption of a statutory code of conduct (a voluntary code had been established by the Local Government Act 1974); the strengthening and increased transparency of local registers of interest; and the creation of local standards committees in every local authority, which were statutorily obliged to include non-elected members of the public on the committee. The Localism Act 2011, however, regrettably reversed almost the entire infrastructure, leading to an outcry within local government (Macaulay et al., 2012).

The CSPL's fifth report followed on from Tony Blair's expanded terms of reference and looked at the funding of political parties. As a result the report addressed wider issues than simply conduct. The report made 100 recommendations, which led to the Political Parties, Elections and Referendums Act 2000 and the creation of the Electoral Commission, established in November 2000. The Electoral Commission is independent of the executive and any political party, and is accountable directly to Parliament. Under the Political Parties, Elections and Referendums Act, donations of more than £200 made to a political party or candidate can only be accepted from a 'permissible donor'.¹ No ceiling was placed on the amount that can be donated, although

all political parties must publicly declare all donations of £5,000 or more accepted by party headquarters. Parties must also report any donations made to branches of £1,000 or more. The act effectively bans overseas donations, and anonymous donations, which used to be acceptable, must now be returned or placed in a central fund. It is a criminal offence to accept impermissible donations.

The seventh report looked at the House of Lords and made 23 recommendations, which led directly to the adoption of a House of Lords code of conduct in July 2001, to come into effect on 31 March 2002. The code of conduct enforces the 'no paid advocacy' rule. A member must not accept any financial reward for influence in the House of Lords; this includes voting on bills, voting on motions, asking questions (whether in the House or in a committee), or promotion of any other matter.

In many if not all sectors, therefore, the CSPL has proved invaluable in establishing an integrity infrastructure throughout the UK. Yet it has not, of course, put an end to ethical problems in public life; far from it. It could be reasonably argued that in the course of the last four years the UK has been hit by a succession of scandals that has outweighed anything since the days of sleaze. This situation begs a number of questions: why have such scandals continued, and in terms of magnitude perhaps even increased? And to what extent can the CSPL be held responsible?

More pain than gain?

The MPs' expenses scandal, the Levenson inquiry, the continuing issues over a lobbyists' register, numerous corruption allegations (both historical and recent) against the police, and the reluctance to deal with political party funding have all seemed to appear anew on the horizon since 2009. Yet the truth is that they had never gone away.

Mixed in with the CSPL's early successes were numerous setbacks. In its 2003 report on non-departmental public bodies, for example, the Public Administration Select Committee found that 15% of central government bodies were not yet regulated by the OCPA. The

select committee report also found that, contrary to the CSPL recommendations, many public bodies do not keep a register, and that existing registers were not easily available to the public. Finally, the parliamentary report demonstrated that appointments to over a hundred independent bodies were made directly by the prime minister, or at least made by the Queen on the prime minister's recommendations, which clearly called the independence of such bodies into question.

Party funding has been repeatedly on the agenda, most infamously in the party loans scandal of 2005, in which each of the

that the Parliamentary Commissioner for Standards has not proven to be an easy role: there have been substantial clashes between highly visible MPs and the commissioner ever since the role was introduced, not least of them being the vituperative exchange between Labour's Keith Vaz and the then commissioner Elizabeth Filkin.

Yet it has been the scandals since 2009 that have really rocked the ethical equilibrium of the UK, and to an extent may have dwarfed the work of the CSPL. The MPs' expenses scandal, which led to a number of MPs and lords being sent to prison, created a huge public outcry. The

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three major political parties had exploited a loophole in the Political Parties, Elections and Referendums Act to allow anonymous donors to provide millions of pounds on the basis that the money was not a donation but a 'commercial loan'. By common acknowledgement this was a clear breach of the spirit (if not the letter) of the law, and each party apologised and promised to pay the money back after publicly identifying the lenders. The scandal led to the arrest of a number of people, including Lord Levy, and also resulted in Blair being questioned several times by the Metropolitan Police (although never under caution or arrest). No criminal charges were ever brought against anybody in connection with the matter.

Conflicts of interest continued to dog MPs and ministers from all parties, stretching from the nepotism of Conservative Derek Conway to the illicit donations garnered by Labour's Peter Hain. It has long been evident

Levenson inquiry has almost certainly garnered more media coverage than the entire work of the CSPL put together. The recent review of the committee, conducted by Peter Riddell for the Public Administration Select Committee, took some of these issues into account and looked for possible alternatives to it, including its abolition and replacement with a variety of possible reforms. The report concluded that, on the whole, the committee remains a valuable institution:

There is a continuing need for an ethics monitor/reviewer. The CSPL should remain as a non-departmental public body – the other models for delivering the role of an ethics monitor/reviewer that I examined as part of this review are not appropriate. But a fresh start is needed to make the committee more effective and to give it greater impact. (Riddell, 2013)

Among the recommendations the review made were to enhance the independence of the committee even further by strengthening its recruitment processes; that it become more strategic; and, perhaps most interestingly of all, that it behave more proactively: 'The Committee should be bolder in picking topics, looking ahead to emerging problems, rather than reacting to scandals and allegations of ethical abuses which have already emerged' (Riddell, 2013). Long-time observers of public life in the UK must be delighted to see such a view stated so plainly. It is hard to disagree that the CSPL's most significant reforms have come

It is of little surprise, then, that recent criticisms of the CSPL included the scope of its work: as Table 2 shows, there has been a tendency to revise previous reports rather than branching out into new areas. Moreover, the CSPL's output under the current coalition government has notably slowed further, and it is perhaps telling that this government is the first to significantly repeal reforms the committee had helped make, with the abolition of the local government standards framework under the Localism Act 2011 (Macaulay et al., 2012).

Where political will has been sluggish – such as over the move towards more

Elections and Referendums Act and the Electoral Commission. These are significant advances which should not be underestimated.

Yet a more long-term view is needed. The reactive culture of the political class in the UK is somewhat dispiriting, and it will be extremely beneficial in terms of public awareness and frank debate to be able to allow the CSPL to pick off higher-hanging fruit, rather than just the windfall that has already dropped to the ground.

Whether or not such an institution is required in New Zealand is, of course, open for debate. Without question the scale and intensity of political scandals here does not compare with that in the UK, and New Zealand has a justifiably famous reputation in terms of good governance and anti-corruption. But this does not mean that New Zealand lacks challenges. There are currently continuing concerns over what appears some to be deal-making with Sky City, and there has been a rising concern over the reduction in the public service's ability to provide 'free and frank advice' (Martin, 2012). Debates over a lobbyists' register are ongoing. The occasional eruptions inevitably lead to uncomfortable questions about whether there might be complacency about standards in public life and a shortage of independent bodies to monitor and anticipate.

Perhaps, also, it is propitious timing for considering the merits of a New Zealand version of the CSPL. Transparency International New Zealand is currently looking at the 'national integrity system' of the country, and there could be a good case to be made for the government to establishing a committee to look at strengthening the integrity of New Zealand using Transparency International's findings as a launch pad. Of course there is no reason to simply try and replicate the CSPL model, but at the very least it would be beneficial to take into account Peter Riddell's recommendations for a more forward-looking and independent body. Nevertheless, history shows that integrity and ethics do not stand still: the acceptable level of high standards of conduct at one point can doubtless deteriorate and corrode.

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about when it has reacted to a specific scandal. The CSPL's recommendations have undoubtedly had a significant impact on public life in terms of creating an ethics and integrity infrastructure, but its most far-reaching successes appear to have arisen from a melding of political will and public outrage, with the latter fuelling the former.

The CSPL was, of course, only created as a direct result of the public backlash against sleaze; Blair's expansion of the terms of reference is unlikely to have come about so soon had he not suffered the first big blow of his prime ministerial rein. It is interesting to note that when his successor, Gordon Brown, was facing open hostility through the expenses scandal he chose not to wait for the CSPL at all and put through the Parliamentary Standards Act 2009 in a matter of three to four weeks. In this case the CSPL was a full six months behind the legislation, and thus had already lost significant momentum in the debate.

substantial party funding reforms, which in July 2013 were postponed once again until after the 2015 elections – there has appeared to be little the CSPL can do other than note its disappointment. Yet perhaps this is in itself a crucial task; the simple existence of an independent body to remind both the public and political leaders that there is an ethos underpinning public service which is vital to its existence. More importantly, a more far-sighted, strategic outlook would undoubtedly strengthen the CSPL's hand even further.

A CSPL for New Zealand?

The CSPL has not, and could not, end scandals in British public life. Yet it has made a significant difference in creating an ethics infrastructure, and also by speaking truth to power. Arguably, it has even been helpful that many more recent scandals can be framed in light of previous CSPL recommendations: illicit donations, for example, are now always discussed in reference to the rules of Political Parties,

If a body such as the CSPL is needed, it is surely in this future-proofing capacity, to help stimulate debate and provide recommendations for action on issues before they become too problematic: to frame the ethics and integrity agenda instead of reacting to the most significant scandal. In its latest report the CSPL clearly sets out its concerns for the future in the UK. Some are old (party funding, lobbying); others are new (concerns over

the Localism Act). Many are broader and require a strategic view: the shifting governance arrangements and forms of service delivery that require ever more nuanced integrity management (CSPL, 2013). If New Zealand was to open a debate about the merits of such an institution, it should not be regarded as a reaction to current scandals but as a means by which the integrity agenda can evolve in a constructive and positive manner.

For New Zealand to continue to be seen as an international leader in this field – which it undoubtedly is – it may be time to grasp some emergent political nettles before their sting is felt too keenly.

¹ Permissible donors include any UK individual registered on an electoral register; a registered party; a company; a trade union; a building society; a limited liability partnership; a friendly, industrial or provident society; and an unincorporated association.

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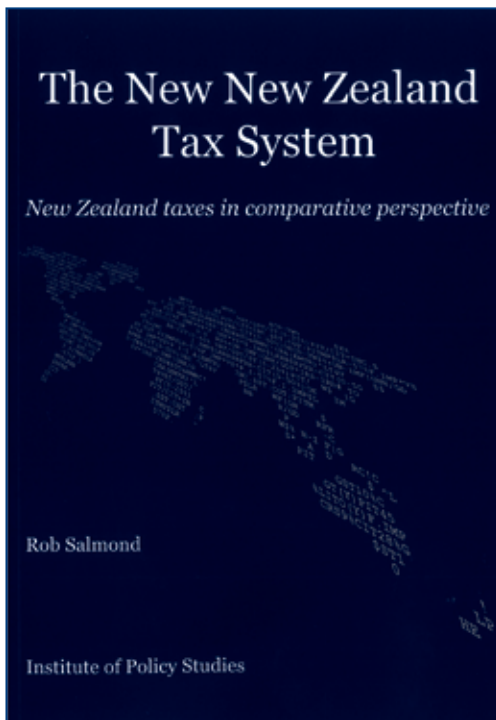
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