

What could a UK Integrity and Ethics Commission look like?

Introduction

The last few years have seen intense and growing public debate about how the standards of behaviour by politicians and senior government officials should be regulated in the UK. At the same time, a series of major independent reviews have recommended a wholesale upgrade of the standards framework, from the UK's top ethics advisory group, the [Committee on Standards in Public Life](#) (CSPL), to the government-commissioned [review into the Greensill scandal by Nigel Boardman](#).

There is a widespread feeling that the current rules and bodies for regulating the ethical standards in government are not fit for purpose, and that this creates a chronic regulatory failure which undermines trust in government and politicians more generally, damages the [health of our democracy](#) and even has [negative consequences for the economy](#).

The creation of a UK Ethics Commission was first [proposed by the Public Administration Select Committee](#) in 2012. In early 2021, the Labour Party announced that, if it were elected, it would establish an Integrity and Ethics Commission, [later explaining that](#) this body would be removed from politicians and have the powers to launch investigations without ministerial approval, collective evidence and decide sanctions.

The idea of a national ethics commission has been around for some time. Canada's first [Conflict of Interest and Ethics Commissioner](#), which oversees conflict of interest rules for public office holders, was appointed in 2007. But the idea has been gaining traction, with the President of the USA, Joe Biden, committing to the creation of a Federal Ethics Commission in his [Plan to Guarantee Government Works for the People](#). A federal Integrity Commission has been long debated in Australia, and the new Labor government has [committed to legislate for a National Anti-Corruption Commission](#) by the end of 2022.

This briefing looks at how an Integrity and Ethics Commission could work in the UK and what the options are for this. We find that an Integrity and Ethics Commission is a viable solution for upgrading the UK's standards framework and that it must be formulated around a [series of core principles](#), including **independence, accountability and transparency**.

Summary

The key operational question in looking at how such a Commission could work is whether it operates as a convening / coordinating body which oversees and enhances existing standards bodies, or as a new dedicated, agency, replacing one or more existing bodies.

These options are as follows:

1. Enhancing the existing framework: Integrity and Ethics Commission as a convening and coordinating body

If a new Commission were to be created as a convening and coordinating body for standards regulators, it would sit above existing bodies, and its primary purpose would be to increase policy and strategic coherence and bridge gaps. To be meaningful, a commission framed in this way would need to be complemented by a wider strengthening of existing bodies, in line with the [recommendations of CSPL](#).

Such a commission would be comprised of the chairs of the Advisory Committee on Business Appointments (ACoBA), Registrar of Consultant Lobbyists and CSPL, the Independent Adviser on Ministers' Interests, and the Commissioner for Public Appointments, but could also include other senior public standards officials, including the First Civil Service Commissioner, the government's Anti-Corruption Champion and others, as part of a broader panel of anti-corruption and pro-integrity commissioners.

Pros: Keeping multiple standards bodies, and enhancing the surrounding regulatory framework, avoids the risk identified by CSPL in *Standards Matter 2* of creating structural vulnerability in a highly consolidated standards regulator, whilst creating a coordinated anti-corruption and pro-integrity function.

Cons: There is a danger that constituting the Integrity and Ethics Commission as a convening body – while leaving the existing architecture in place, albeit in a substantially improved form – would not be seen as sufficient a level of change to restore public trust in a broken system.

2. Establishing a new framework: Integrity and Ethics Commission as a new dedicated agency

This could take one of 2 forms:

1. A tightly focussed new agency with a specific remit, taking on some or all responsibilities from a limited number of existing bodies – ACoBA and the Independent Adviser on Ministers' Interests – while leaving other elements of the existing infrastructure intact but improved.
2. A dedicated, comprehensive anti-corruption agency, along the lines being implemented in Australia.

Pros: A powerful and independent new body could sweep away failing bodies, would be expressly empowered and resourced to deliver significantly more oversight and scrutiny, restoring public trust in politics

Cons: Substantial consolidation risks creating the structural vulnerability identified by CSPL, with the standards system rising and falling with one super-regulator.

Broader plan to improve public standards

Any new public standards regulator should be situated within a broader plan to improve ethical standards and a culture of integrity in government. A new body will not fix all of the problems. Areas in need of reform, which may fall outside the scope and powers of a new commission, include lobbying, party political donations, House of Lords reform, and reform to both the law and enforcement of domestic corruption.

Context: The need to reform ethical standards regulation in government

- The rules and bodies for regulating the ethical standards in government are widely seen as not fit for purpose. The patchwork of conventions and ineffective bodies developed in response to scandals, rather than as a coherent system for managing risks or increasing integrity and compliance with the rules. (A brief overview of the roles and responsibilities of existing bodies is set out below). There has also been a failure to create – through training, leadership, organisational culture and other informal tools – [the pro-integrity environment](#) in which sanctions and other formal tools can be effective.
- The weaknesses of this system have grown increasingly apparent in recent years, with serious and repeated questions about the conduct of ministers and senior civil servants, their relationship with private enterprise, and conflicts between outside relationships and duties in public office, the inability of public standards bodies to investigate or enforce the rules, and undue influence exerted over government by companies and private individuals through various means, including in party political financing.
- A series of reviews have identified failings in the regulation of ethical standards in government. These include a [landscape review by CSPL](#) in November 2021, which advanced 34 recommendations for a wholesale upgrade of the public standards landscape, and the [government's own review by Nigel Boardman](#) in July 2021, which recommended a series of changes to strengthen standards, governance and compliance.

CSPL's position

- In *Standards Matter 2*, CSPL identified that the areas in most urgent need of reform were: the Ministerial Code and the Independent Adviser on Ministers' Interests, the Business Appointment Rules and the Advisory Committee on Business Appointments, the public appointments process, and transparency around lobbying.
- CSPL rejected the idea of a new statutory ethics commission on the basis that consolidating a significant number of existing public standards bodies would:
 - **Amass significant unelected power** over the workings of government – CSPL identified six standards bodies covering a wide range of areas that would be consolidated – concentrating power to a body without an elected mandate, and without checks, balances and accountabilities.
 - **Create confusion** because existing organisations have multiple codes of conduct which cannot be amalgamated.
 - **Create a structural vulnerability**, on the basis that one regulator may fall foul to scandal but consolidating all of these bodies means they would rise and fall together.
- **Whilst some of these are important considerations, they are not inevitable consequences of any new statutory body** – whether regulator or investigative agency – and particularly one that assumes more limited functions or does not consolidate existing bodies. It is unclear why CSPL assumed that a new statutory body would necessarily have such a wide scope or why it would not incorporate suitable checks, balances and accountability by design. CSPL's arguments also do not reflect public perceptions of this failed system and public appetite for meaningful reform.

The existing patchwork system

Government

<p>Cabinet Office Propriety and Ethics Team</p> <p>Whilst not a stand-alone body, the Propriety and Ethics Team supports the Prime Minister, Cabinet Secretary and Independent Adviser.</p>	<p>Advisory Committee on Business Appointments (NDPB)</p> <p>ACoBA considers applications under the business appointment rules about new jobs for former ministers and senior civil servants.</p>	<p>Independent Adviser on Ministers' Interests</p> <p>Appointed by the Prime Minister to advise him or her on matters relating to the Ministerial Code.</p>
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Civil Service

<p>Civil Service Commission (NDPB)</p> <p>The Civil Service Commission provides assurance that civil servants are selected on merit on the basis of fair and open competition; and to help safeguard an impartial Civil Service.</p>	<p>Parliamentary and Health Service Ombudsman</p> <p>Makes final decisions on complaints that have not been resolved by government departments and other public organisations.</p>	<p>Commissioner for Public Appointments</p> <p>Ensures that ministerial appointments are made in accordance with the Governance Code and the principles of public appointments.</p>
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House of Commons

<p>Committee on Standards</p> <p>The Committee on Standards oversees the work of IPSA, considers complaints from the Parliamentary Commissioner, and recommends changes to the Code of Conduct for MPs.</p>	<p>Independent Parliamentary Standards Authority</p> <p>IPSA regulates MPs' costs and expenses, determines pay and pension arrangements, and provides financial support to MPs in their functions.</p>	<p>Parliamentary Commissioner for Standards</p> <p>The Commissioner for Standards investigates breaches of the House of Commons Code of Conduct</p>
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House of Lords

<p>Commissioner for Standards in the House of Lords</p> <p>The Commissioner for Standards investigates complaints about Members in relation to the House of Lords Code of Conduct.</p>	<p>House of Lords Conduct Committee</p> <p>The Conduct Committee oversees the House of Lords Code of Conduct and the Commissioner for Standards.</p>	<p>House of Lords Appointments Commission (NDPB)</p> <p>Recommends individuals for appointment as non-party political peers and vets nominations for life peers to ensure standards.</p>
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Others

<p>Committee on Standards in Public Life (NDPB)</p> <p>Advises the Prime Minister on arrangements for upholding ethical standards of conduct across public life.</p>	<p>UK Anti-Corruption Champion</p> <p>Responsible for helping drive delivery of the Government's anti-corruption strategy as well as representing the government's anti-corruption agenda in the UK and internationally</p>	<p>National Audit Office</p> <p>Watchdog which helps to improve public services through audits of government departments and other public bodies, and reports on the value for money of public spending.</p>
<p>Electoral Commission</p> <p>Oversees elections and regulates political finance in the UK. Promotes public confidence in the democratic process and ensures its integrity.</p>	<p>Office of the Registrar of Consultant Lobbyists</p> <p>Oversees the statutory register of consultant lobbyists.</p>	

Principles for developing an Integrity and Ethics Commission

The Labour Party has pledged that a Labour Government would restore standards in public life by building a new system centred around an Integrity and Ethics Commission – a single, independent, statutory body, removed from politicians, with powers to launch investigations without ministerial approval, collect evidence and decide upon sanctions.

Any government pursuing such significant changes to the standards landscape should take a highly consultative approach that considers a wide range of voices – from academia, civil society, existing standards bodies and others – when considering the purpose, powers, scope, form and intended outcomes of the commission, and for defining ethics and standards issues. This will help to inform the options, identify best practice and bolster the commission's credibility. The formulation of a national integrity commission in Australia involved extensive consultation, which ultimately led to the robust anti-corruption agency which is now being implemented.

We believe an Integrity and Ethics Commission should be formulated around the following principles:

1. **Independence:** the commission should be operationally independent of the government, the public officials it oversees and their institutions, and demonstrate that it serves the public interest rather than the government. The commission should be developed to withstand [pushback from politicians and other affected parties](#), through political and institutional support, long-term funding, independence and other safeguards.
 - **Legislation:** the commission should have a statutory basis governing its mandate, appointment and removal processes, functions, powers, budget, accountability, [and other matters](#). Legislation may not be necessary for a convening body, but it would be essential that the participating standards bodies are put on a statutory footing.
 - **Funding and resources:** the commission would need adequate resources, personnel and expertise, in order to exercise its mandate effectively.
 - **Appointment:** the commission's members or directors should be appointed through a transparent process that guarantees independence from government, which is based on merit and facilitates the appointment of persons with integrity and competence, who must not be political appointees.
 - **Removal:** the commission's members or directors should only be removed for incapacity or misconduct rendering them unfit for office, and should not be eligible for reappointment.
 - **Mandate:** the commission should have a clear mandate and its intended outcomes should be defined, including to [promote the trustworthiness of political institutions](#) and actors within them; make government more accountable, transparent and representative; and [promote and improve a culture of integrity](#), compliance and good behaviour in government.
2. **Accountability:** the commission should be accountable to Parliament rather than to the Prime Minister, embed ongoing institutional oversight of its activities with a council or board – which is properly independent, drawn from a wide range of backgrounds – and be required to [explain its governance, performance, decision-making and policies](#) where required. It should have a [suitable strategic plan that is regularly reviewed](#) and [appropriate measures for performance](#).
3. **Transparency:** the commission should commit to a high level of transparency and publish its minutes, policies, procedures, complaints process, annual reports, and other documentation. The commission's decisions should be capable of challenge, and its finances should be independently audited. The commission – particularly an anti-corruption agency with investigative powers – would need a direct relationship with the public and media, to build a public constituency and support for its work. Public hearings would help to enable that. Without that relationship, there is a significant risk that politicians and other affected parties would move to smother the commission if it does its job effectively.

Potential models for an Integrity and Ethics Commission

The key operational question in formulating a new Integrity and Ethics Commission is whether it operates as a:

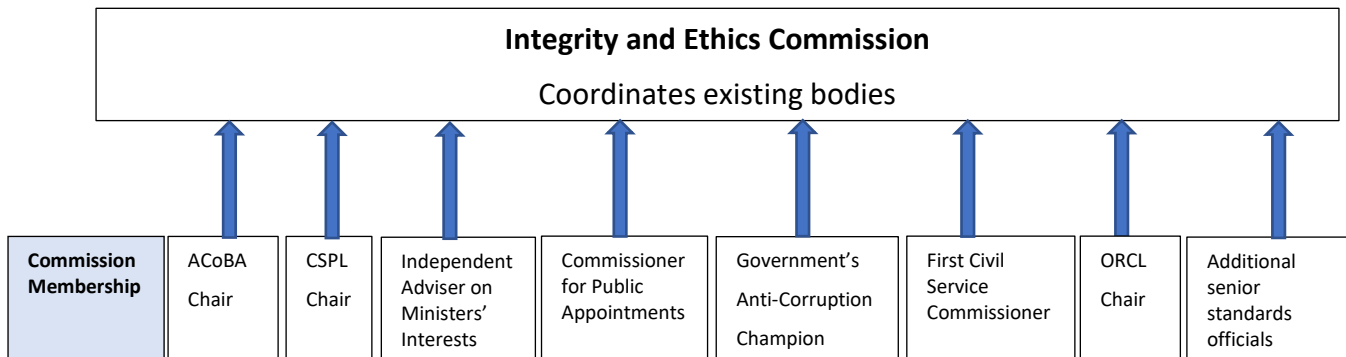
- convening / coordinating body overseeing and empowering existing bodies, or
- new dedicated agency, replacing and subsuming existing bodies and/or their responsibilities

We summarise the main features of those approaches below, as well as the pros and cons of each model.

1. Convening / coordinating body

One option is to create a central body that convenes and coordinates some of the existing standards bodies. Such a commission would be comprised of the chairs of ACoBA, CSPL and the Office of the Registrar of Consultant Lobbyists, the Independent Adviser on Ministers' Interests, and the Commissioner for Public Appointments, but could also include other senior public standards officials, including the First Civil Service Commissioner, the Government's Anti-Corruption Champion and others, as part of a broader panel of anti-corruption and pro-integrity commissioners. It is essential that a convening / coordinating pro-integrity body is accompanied by wider anti-corruption reforms to improve the independence, investigative / enforcement powers, and resources of existing bodies, including putting those bodies and their corresponding rules and codes on a statutory footing.

In his [report published in August 2021](#) in light of the Greensill scandal, Nigel Boardman recommended that the Chairs of ACoBA, CSPL, the Civil Service Commission and the Registrar of Consultant Lobbyists, alongside the Independent Adviser on Ministers' Interests, may wish to form an informal advisory panel through which to submit joint advice on ethics issues to a newly developed Cabinet Office Board. The convening / coordinating body proposed here would be an enhanced version of that informal panel.



Powers and Responsibilities

Under this model, the Commission would:

- bridge gaps and increase policy and strategic coherence between the standards bodies creating a more coherent and holistic approach to public standards regulation;
- identify, analyse and develop policies and strategies to mitigate risks from corruption and conflicts of interest in government in order to prevent and minimise them;
- actively promote integrity and positive behaviour across government; and
- ensure the cross-government compliance function recommended by Nigel Boardman (summarised below) in collaboration with participating standards bodies is delivered.

This sort of convening panel would not have direct investigative and enforcement powers, as these would continue to rest with the individual standards regulators. The creation of this panel would need to be complemented by significant improvements to the independence, resources, investigative and enforcement powers of the participating bodies to gain public confidence. It would also need sufficient resources in its own right and a mandate to compel public authorities to give them information to exercise the powers above.

Pros

- This model has the advantage of accepting CSPL's proposals to enhance multiple parts of the standards systems and corresponding bodies, whilst improving coordination between those bodies, compliance with processes across government, and increasing a culture of integrity. It would marry CSPL's recommendations in *Standards Matter 2* with those of other reviews: that the UK needs a more centralised, holistic approach to analysing and mitigating corruption risks in government.
- Keeping multiple standards bodies, and enhancing the surrounding regulatory framework, avoids the risk identified by CSPL of creating structural vulnerability in a highly consolidated standards regulator, although there could be a potential risk in the perception of consolidation if things go wrong.

Cons

- There is a danger that constituting the Integrity and Ethics Commission as a convening body – while leaving existing architecture in place, even if wider reforms are implemented – may not be a sufficient level of change to restore public trust in a broken regulatory system. It would only be as independent from government as the participating standards bodies and their chairs.
- A body that is tasked with coordinating and convening defective public standards bodies, would not necessarily result in improved anti-corruption and pro-integrity outcomes if those existing bodies are not significantly strengthened.

Analysis / Conclusion

- Independent reviews have recommended that the UK take a more holistic and centralised approach to analysing and mitigating corruption risks in central government, including the [Group of States Against Corruption](#) and the [2019 review of the UK's implementation of the UN Convention against Corruption](#). An ethics commission that coordinates and enhances standards bodies could take on this key role.
- If a convening and coordinating model was adopted as the Integrity and Ethics Commission, it would be **essential** for CSPL's recommendations in *Standards Matter 2* to be implemented, at the very minimum, in order to increase the powers, independence (including statutory footing) and resources of the participating standards bodies. The process for implementing those recommendations – and any further strengthening – could be aligned with the design and formulation of the new commission.
- CSPL is an existing central body that has important research and advisory responsibilities in relation to improving ethical standards in public life, is widely respected and works effectively. In our view it would not be desirable to abolish CSPL or adapt it into this commission, but making the chair of CSPL a commissioner in or member of this form of commission would be one way to align activities and achieve policy coherence.

The Boardman Review and cross-government compliance

- In his August 2021 [review into supply chain finance](#), Nigel Boardman recommended that the government set up a function to ensure compliance with governance processes and the wider regulatory framework, by embedding compliance professionals within departments, coordinated by a central team in the Cabinet Office. CSPL included Boardman’s proposed compliance function in their recommendations.
- Sir Boardman recommended that the central team incorporate responsibilities of some of the existing policy teams, and sponsor ACoBA, CSPL, the Civil Service Commission and the Registrar of Consultant Lobbyists, and that the chairs of these standards bodies, alongside the Independent Adviser on Ministers’ Interests, form an informal advisory panel to submit joint ethics advice to the Cabinet Office Board.
- He also recommended that the compliance function’s remit should include conflicts of interest, lobbying, whistleblowing, pre-appointments, business appointments, secondary employment, dealings in securities, fraud and transparency, and over time should consolidate compliance with the whole standards system; and that the compliance function could have investigation and enforcement powers in relation to civil servants and contractors, and advisory powers in relation to ministers.
- As [Spotlight on Corruption noted in response to this review](#), Boardman focused on changes needed in the civil service but failed to address key weaknesses in the regulation of ministerial standards or to advance reforms that would increase ministerial accountability.

2. New Dedicated Agency

There are essentially two forms that a dedicated new agency could take:

1. A tightly focussed new agency taking on responsibilities from a limited number of existing bodies, while leaving other elements of today’s infrastructure intact.
2. A comprehensive anti-corruption agency tasked with tackling corruption risks and improving integrity and compliance across government.

Each are discussed below.

1. **A tightly focussed new agency taking on responsibilities from a limited number of existing bodies, while leaving other elements of today’s infrastructure intact**

In July 2012, [the Public Administration Select Committee \(PASC\) recommended](#) replacing ACoBA with a Conflicts of Interest and Ethics Commissioner, based on the Canadian model.

Case study: Canada’s Office of the Conflict of Interest and Ethics Commissioner

- [Canada’s Conflict of Interest and Ethics Commissioner](#) oversees conflict of interest and revolving door legislation amongst public office holders, with an enhanced regime for senior public office holders, and a non-statutory code of conduct for MPs. The Commissioner is independent of the Canadian government and reports directly to parliament.
- The Commissioner helps public officials to avoid conflicts between public duties and private interests; administers the Conflict of Interest Act – which applies to 2,800 public office holders and includes an enhanced regime for ministers, parliamentary secretaries, ministerial staff and others – and Conflict of

Interest Code for 338 elected MPs. It investigates possible contraventions, and advises public office holders on their obligations under the Act and Code, reviews confidential reports, and makes information available in a public registry.

- The Parliament of Canada Act provides that the Commissioner must be a former judge, former member of a federal or provincial board, commissioner or tribunal who has demonstrated expertise in conflict of interest or related matters, or a former Senate Ethics Officer or Ethics Commissioner.
- The Canadian regime has been criticised due to the absence of penalties for contravention of the Act or Code, beyond administrative fines. In June 2021, a [Parliamentary committee recommended](#), among other things, that the Commissioner be provided with more tools to sanction public office holders who contravene the Act, and that the government review and amend the Conflict of Interest Act.

There is unlikely to be public, political or institutional support for the Canadian model to be adopted in full in the UK given that there is a well-established separate track for separate standards regulation for MPs governed by Parliament itself. A new dedicated agency, marrying appropriate elements of the Canadian model with a focus on central government, could however replace ACoBA and the role of the Independent Adviser on Ministers' Interests – both unquestionably in serious need of reform.

Powers and Responsibilities

- Oversight of ministers' ethical standards and conflicts of interest in line with the Ministerial Code.
- Review and approve applications under the business appointment rules about new appointments for former ministers and senior civil servants.
- In both respects the new body would have powers to initiate investigations into ministers and former ministers, determine breaches, recommend sanctions and publish findings.
- Recommendations should be implemented automatically without political interference, and protected from external powers of direction.

Pros

- ACoBA is a defective body with limited powers and resources which has been widely condemned as a toothless watchdog. It seeks, unsuccessfully, to oversee the revolving door through limited advisory functions. Given the widespread and longstanding criticism of the body, and public perception of this failed framework, there is a strong argument to replace it with an effective regulator.
- Similarly, the Independent Adviser on Ministers' Interests, in its current form, is not fit for purpose and has lost public trust and support in the face of recent events. It is widely regarded as toothless and incapable of meaningfully standing up to political masters.
- A tightly focussed new agency would be empowered to focus on a limited set of issues – post-public business appointments, conflicts of interest and the ethical standards of ministers – narrowing the scope for political attack from those seeking to discredit its work.

Cons

- Consolidation of existing bodies risks creating the structural vulnerability identified in *Standards Matter 2* and risk of failure.
- A narrow new commission focusing on a specific subject area could do so at the expense of improving the system for identifying and mitigating corruption in government as a whole.

- Given its operational weaknesses and lack of teeth, the Canadian model would need substantial changes to be a credible body in the UK.

Analysis / Conclusions

- If ACoBA and the Independent Adviser on Ministers’ Interests are replaced with a commission based on the Canadian model, it would be essential to avoid the weaknesses of that model and to provide it with teeth. The new agency must have the independence, powers and resources to do the job. That means, at a minimum, powers to initiate investigations, impose sanctions and publish its reports. Making adherence to the Business Appointment Rules a legal requirement, through contracts for civil servants and parallel arrangements for ministers, would increase the body’s potential effectiveness.
 - In addition, if the body is mandated to tackle conflicts of interest for public office holders beyond central government, in accordance with the Canadian model, a cross-government compliance function would need to be developed, as recommended by Sir Nigel Boardman and supported by CSPL.
 - A commission with robust investigative and sanctioning powers – whether in relation to post-public business appointments and/or ministerial standards – should be accompanied by a programme to build a culture of compliance and integrity across government. It would be important to [build in pro-integrity policies and integrity management](#), or those responsibilities should be developed elsewhere in the system.
 - A commission that replaces and enhances certain aspects of standards regulation would need to be accompanied by wide-ranging reforms to address other systemic failings. This should include a more holistic, centralised approach to tackling corruption and improving standards across government, and an improved compliance function. As such, a limited body should embed the further reforms advocated by CSPL at a minimum, to improve and enhance the wider anti-corruption ecosystem.
- 2. A dedicated, comprehensive anti-corruption agency, with strong investigative powers, could be designed to oversee and tackle all corruption risk areas across government. Anti-corruption agencies along these lines have been implemented in Australia and a new body is now being implemented there at national level.**

Case study: the Australian system

- The [Independent Commission Against Corruption](#) (ICAC) was established by the New South Wales (NSW) government in 1988 in response to concerns about integrity in public life. The ICAC aims to protect the public interest, prevent breaches of public trust and guides the conduct of public officials. It deals with corrupt conduct involving or affecting most of the public sector in NSW, including state agencies, ministers, local government, members of Parliament, the judiciary and others. The ICAC has extensive investigative powers, is operationally independent of government, politicians or any political party, and is not responsible to a minister. It is an example of best practice in independent anti-corruption agencies with investigative functions.
- Since 1988, each state and territory in Australia has instituted its own commission, with different powers and structures. In the last 3-4 years, pressure mounted to push for a similar institution at the national, Commonwealth level. The Morrison government committed to introducing a Commonwealth Integrity Commission. Labor criticised that proposal, saying it would be unable to initiate independent inquiries, hold public hearings into government corruption, or investigate past scandals. The new Labor government [committed to legislating a new independent National Anti-Corruption Commission](#) by the end of 2022.

- The new Commission, which draws from the NSW ICAC, will have the following features:
 - Jurisdiction to investigate Commonwealth ministers, public servants, statutory office holders, government agencies, parliamentarians, and personal staff of politicians, as well as non-public actors who attempt to corrupt public actors, including lobbyists, party funders, developers etc.
 - Carry out its functions independently of government, with discretion to commence inquiries into serious and systemic corruption on its own initiative or in response to referrals.
 - Be overseen by a statutory bipartisan parliamentary Joint Standing Committee, empowered to require the Commission to provide information about its work. That Committee would be responsible for confirming the Commissioners nominated by the Government.
 - Have the power to investigate allegations of serious and systemic corruption that occurred before or after the Commission is established; and to hold public hearings in the public interest.
 - Be empowered to make findings of fact, including a finding of corrupt conduct, but not to make determinations of criminal liability. Criminal conduct would be referred to law enforcement. It is important, following the NSW ICAC model, that the definition of corruption is not tied to particular breaches of law.
 - Be independently staffed and led by a senior former judicial official.

Whilst the Australian model has much to recommend it in terms of clarity, independence, accountability and transparency, there are big questions as to whether a commission of similar scope would fit with the UK's constitution and culture. There has been little appetite so far for instance for merging responsibility for investigating corruption in local government and the judiciary with other standards regulation. Furthermore, the Australian model is based on a very broad definition of corruption which currently does not exist in the UK legally, and it represents a distinct shift from the regulation of public standards based on broad ethical norms to the enforcement of anti-corruption standards.

The first task in establishing such a body by a government in the UK – following broad consultation – would be to decide exactly which powers and responsibilities are best situated within a new comprehensive agency, and which should remain outside. Some questions to consider would include:

- Should the agency be focused on regulating ethical standards or enforcing anti-corruption rules?
- Should the new agency be limited to central government?
- Would the new body focus exclusively on politicians and political appointees or would its remit include public and civil servants?
- Should the new agency seek to subsume existing bodies to deliver a fresh start, even where those bodies are succeeding?
- What relationship would the new body have with parliament and law enforcement agencies?
- What role would the new body play in the regulation of lobbying?
- What relationship should the new agency maintain with remaining bodies?

Powers and Responsibilities

The power of a comprehensive agency will of course depend on the decisions taken on the questions above. However, powers and responsibilities could include:

- Investigation of corruption (and ethical breaches if the scope is drawn widely), including by ministers, with powers to obtain access to documents, compel witnesses to testify, hold public hearings, and recommend sanctions, including criminal charges.
- Prevention of corruption and ethical breaches by encouraging government to address and reduce corruption and integrity risks, raise awareness of corrupt and unethical conduct and encourage reporting of such conduct, and ensure good practice for corruption prevention work.
- Be accountable by providing timely and accurate reporting, including public reporting about its work.

This sort of agency may be tasked with promoting integrity and encouraging positive behaviour as a secondary aim, but in practice it would devote its energy and resources to detecting and exposing corruption and ethical breaches. An anti-corruption agency should therefore be complemented by a pro-integrity reform programme, either by scaling up the existing pro-integrity infrastructure or creating a new convening body to [improve a culture of integrity in government](#), coordination between the bodies, and to increase compliance with the rules.

Pros

- A strong, visible, standalone anti-corruption agency would instil public confidence that it holds senior politicians, all the way up to the Prime Minister, to account for corruption. It would give the public confidence that the system now takes integrity issues seriously and, by its operational activities, that it has not been politically captured and that senior public officials are subject to its mandate. Such agencies can be powerful and independent whilst being entirely accountable for doing their job properly.
- The current system is not working. A powerful and independent Integrity and Ethics Commission, based largely on the Australian model, would be free to offer a fresh start, ensuring significantly more scrutiny and accountability than is currently the case, particularly in relation to government and the ethical standards of ministers. This form of commission would investigate corruption broadly defined, regardless of the how the Ministerial Code or other rules and codes are defined and changed.

Cons

- The standards framework in the UK is based on an understanding of ethics that is broader than corruption and there is a risk that an anti-corruption agency could lose this broader focus.
- A big bang substantial consolidation carries the risk of system failure. There are substantial consolidation risks creating the structural vulnerability that CSPL identified in *Standards Matter 2*, with the standards system rising and falling with one super-regulator.
- Anti-corruption agencies do not always work. Agencies with strong investigative powers are more powerful and threatening than ones without the same teeth, but they also require significant investment and resources, face higher expectations, require tight controls, legal restrictions and complex assimilation into the criminal law enforcement landscape, and [attract greater risk of political blowback if they do their job effectively](#). The agency would need to be independent enough to investigate important corruption and misconduct at the highest level, but institutionally strong enough to survive.
- A body with strong investigative powers that covers corruption in the ministerial / parliamentary and other spheres would need to be effective in each context. The commission will not be successful unless it delivers on realistic performance indicators. [A gap between expectations and delivery would undermine confidence](#) and weaken the commission's credibility.
- There is a risk in consolidating bodies that perform well, like the Civil Service Commission, and lowering already high performance. In addition, whilst the current system is not working, it would be substantially enhanced by implementing CSPL's recommendations. That improved public standards landscape, with enhanced investigative powers, would reduce the need for a new anti-corruption agency.

Analysis / Conclusion

A comprehensive new agency could sweep away a failing system and restore public trust. The significant independence, accountability, transparency, investigative powers, and bipartisan framing of the NSW ICAC offers an exemplar of how a system can be reformed. However, it is important to be mindful of the risks

inherent in such an approach. As such, significant work would be required to properly devise the form and function of an Australian-style UK anti-corruption agency, and the sequencing required to make it operational.

Whatever form a new agency takes, it will have to interact with parts of our existing constitutional settlement, and the greater the powers and responsibilities of a new body, the wider the political risk.

Ultimately, a new, comprehensive agency would need to be complemented by broader standards regulation which promotes integrity and improves standards across government, embedding the spirit of the reforms advocated by CSPL at the minimum. Any commission would need adequate resources and powers to initiate investigations, impose sanctions and publish its reports.

The success of the commission and public trust in the body would depend to a significant extent on the commissioners. The NSW ICAC has a Chief Commissioner (appointed for a 5-year fixed term), two Commissioners, and Directors of each division: investigations, corruption prevention, corporate services and legal. A commission based on this model in the UK could have a panel of commissioners to increase expertise and spread the risk of failure. Individuals with high levels of integrity could be appointed through a merit-based process that guarantees independence from government.

Broader plan to improve public standards

- Any new public standards regulator should be situated within a broader plan to improve ethical standards and a culture of integrity in government. A new body will not fix all of the problems. Areas in need reform, which may fall outside the scope and powers of a new commission, and which should be given close consideration by the current or any future government, include the following:
 1. **Lobbying transparency:** information about government meetings with external organisations and individuals is often incomplete, lacks detail, is released late, hard to find and not easily cross-referenced, making it difficult to obtain a clear picture of attempts to influence government. Much greater transparency is needed, including publication of lobbying data through a centrally managed and searchable database, and a system of oversight for the quality of departmental returns, as recommended by CSPL.
 2. **Ensuring integrity in political donations and elections:** the independence, powers and resources of the Electoral Commission should be restored and increased in light of changes introduced by the government through the Elections Act. In addition, public confidence in government and political institutions is unlikely to be recovered without addressing the significant risks of undue influence through political donations. The system is riddled with loopholes and requires little to no due diligence on the source of funds. CSPL published a report in July 2021, [Regulating Election Finance](#), which included recommendations for reform.
 3. **Ensuring integrity in House of Lords appointments and register of interests:** the House of Lords Appointments Commission should be put on a statutory footing. It should be given greater powers to assess the suitability of nominees, including their capacity and willingness to contribute to the work of the House of Lords, in the context of its size and composition.
 4. **Ensuring stronger criminal rules and better law enforcement for domestic and political corruption:** it would be important to consider the remit and powers of – and dedicating resources to – law enforcement agencies to enforce the criminal law against public officials, addressing problems with the legal framework and potential scope for a new offence/s, which should include reform of the offence of misconduct in public office, and developing optimum relationships between the commission and law enforcement agencies.

Ethics commissions and law enforcement

- Anti-corruption agencies have been introduced around the world to identify and tackle corruption in government through prevention and repression measures, with [varying degrees of effectiveness](#). The Organisation for Economic Cooperation and Development [identified three basic categories](#):
 - **Multi-purpose anti-corruption agencies** combine enforcement (which usually means investigative, and sometimes prosecutorial, powers), prevention and public education and support.
 - **Law enforcement type agencies** are specialist police or prosecutorial bodies.
 - **Corruption prevention institutions** include commissions and other bodies that monitor public ethics issues and promote reforms, but do not have strong investigative powers.
- Criminal law enforcement is not envisaged as part of the options proposed above. A commission that provides regulatory oversight of standards rules would not address the fact that no law enforcement agency in the UK currently has the remit, resources and operational independence to tackle high-level political corruption. Laws on misconduct in public office are not fit for purpose and the [Law Commission's recommendation for a new offence](#) of corruption in public office is gathering dust.

Immediate steps towards an Integrity and Ethics Commission

However a new Integrity and Ethics Commission is formulated, there are a number of steps we recommend that any government pursuing such a reform commits to take in order to immediately improve standards in public life, and create the conditions for a successful Integrity and Ethics Commission. These are as follows:

- 1. Commit to implement CSPL's recommendations in *Standards Matter 2* in full as soon as possible.** This would include establishing the cross-government compliance function as recommended by Nigel Boardman. Most of CSPL's recommendations could be implemented quickly and without legislation through changes to codes, rules, resources and procedures. If a new agency is going to be created, it would be wise to delay putting existing standards regulators on a statutory footing. However, if the convening model of an Integrity and Ethics Commission is pursued, the existing standards regulators should be put on a statutory footing at the earliest opportunity, to provide greater independence and oversight in the appointment process of these regulators, and to increase their powers of investigation and enforcement.
- 2. Commit to ramping up training and guidance on integrity and ethics across government, to create an environment in which the public standards bodies can be more effective.** This could be achieved in the short term by increasing the organisational capacity and resources of the current standards regulators to do this.
- 3. Commit to convene an advisory panel, including existing public standards regulators as well as governance experts to oversee extensive public consultation on the creation of an Integrity and Ethics Commission.** This advisory panel should be involved in drawing up the terms of reference for any consultation and for recommending a process. If the convening model is pursued, the government could alternately commit to convening the existing standards regulators including CSPL into an informal advisory panel as a first and immediate step, to advise the new government on upgrading the UK's standards framework. This informal advisory panel could form the basis for an Integrity and Ethics Commission based on the convening model and develop proposals for its evolution.