

# Integrity Deferred?

**An audit of government implementation of  
standards reform recommendations made  
by independent expert bodies**

**Written by**

**Dr Daniel Beizsley and Dr Susan Hawley**

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**Five months ago, on the steps of Downing Street, new Prime Minister Rishi Sunak promised to lead a government with “integrity, professionalism and accountability at every level.” That pledge represented a tacit acceptance that standards in public life had fallen below reasonable expectations and that a different style of governing was in order.**

However, a key test of whether that pledge has real substance is the extent to which Sunak’s government is prepared to implement recommendations made by independent experts on how integrity in public office should be regulated.

Two major independent expert reports, published in 2021, recommended sweeping reform to the regulation of ethical standards in public life. In August 2021, Sir Nigel Boardman made 17 recommendations and 8 suggestions for improving standards following an inquiry commissioned by the government in light of the Greensill scandal.<sup>1</sup> In November 2021, the Committee on Standards in Public Life (CSPL) made 34 recommendations in its *Standards Matter 2* report.<sup>2</sup>

These reports addressed wide-spread systemic failures, some of which had been exposed by the Greensill affair, and found considerable consensus on the need for significant overhaul of the current rules and structures in place to regulate standards in public life, including on:

- ◆ making ‘revolving door’ rules legally binding for ministers and civil servants, and ensuring that the rules are applied and enforced consistently across government;
- ◆ reforming lobbying rules to better capture informal forms of lobbying and the use of alternative forms of communications;
- ◆ and improving departmental reporting to increase the regularity and quality of transparency data.

**Our audit reveals that nearly eighteen months after they were made just 7% (or 4 out of 57) of those recommendations have so far been implemented.<sup>3</sup> 40 of these recommendations have seen no action at all, 12 only partial implementation and 1 is unknown. Progress that has been made is primarily based on the updating of guidance and publishing of policy papers, and entire agendas – from departmental codes of conduct, lobbying transparency to the revolving door between government and business – have so far been left almost completely untouched.**

Similar recommendations to those outlined by Boardman and CSPL were made by international bodies including the UN and the Council of Europe. In March 2021 the Council of Europe found that **just one of the six** recommendations it had made to the United Kingdom in 2017 to prevent corruption and promote integrity in central government (many of which overlap with CSPL recommendations) had been satisfactorily implemented.<sup>4</sup>

The UK Parliament’s Public Administration and Constitutional Affairs Committee (PACAC) report into the Greensill scandal in December 2022 meanwhile reiterated many of the CSPL

recommendations. A response to this report was due by the end of February 2022 under parliamentary rules but has yet to be received.<sup>5</sup>

These reports are not the only reports awaiting a response from the government to improve the UK's anti-corruption landscape. A December 2020 Law Commission report recommended two new offences of corruption in public office and breach of duty in public office to replace the current misconduct in public office offence. An official response to that report is now two years overdue.<sup>6</sup>

We hope this audit acts as a wake-up call to those in government to deliver the ambitious and far-reaching reform to ethics regulation that our political and governance system so clearly requires. We also hope the audit serves as a dashboard against which any future proposed reforms, recently promised by the current government,<sup>7</sup> can be cross-checked.

## **Why these reforms matter**

Serious implementation of the reports' recommendations would improve the functioning of our government, create a stable environment for business and, perhaps most importantly, protect the health of our democracy by increasing public trust in government.

Lower standards in government impact on how business perceives it can operate. Ethics scandals have a clear knock-on effect on the UK's reputation – and with it the investor environment. Evidence that ethics scandals have taken their toll are shown by the fact that:

- ◆ Both *Moody's* and *Standard & Poor's* downgraded the UK's credit rating to a negative outlook in the past two years, in part due to concerns over the UK's weakened institutions and governance.<sup>8</sup>
- ◆ In January 2023, the UK plunged to its lowest ever ranking in Transparency International's Corruption Perceptions Index, falling from 11th to 18th reflecting concerns from the business community about the quality of governance in the UK.<sup>9</sup>

Meanwhile, in the light of recent scandals, public trust has fallen to levels not seen since the Iraq war and the parliamentary expenses scandal:<sup>10</sup>

- ◆ Only one in three Brits (35%) trust the government, compared to an average of 41% in Organisation for Economic Cooperation and Development (OECD) countries, while nearly two thirds (62%) thought that a politician would accept a well-paid job in the private sector in exchange for a political favour compared to the OECD average of just under half (48%).<sup>11</sup>
- ◆ Spotlight on Corruption polling in July 2022 found that 71% do not trust politicians to police their own behaviour, and 70% have no confidence in the current system for investigating and holding ministers to account.<sup>12</sup>
- ◆ Institute for Public Policy Research (IPPR) research in November 2022 confirmed that trust in politicians was "*in free fall*" and found two thirds of the British public (66%) thought that politicians were "*only out for themselves*."<sup>13</sup>

- ◆ University College London's *Constitution Unit* polling published in March 2023 found that 52% think politicians follow lower ethical standards than ordinary citizens, and that trust across the board had continued to fall throughout 2022.<sup>14</sup>

At the same time, the public consistently shows overwhelming support for integrity reforms (irrespective of party allegiance):

- ◆ Spotlight on Corruption polling found that 80% of the public supported putting the code of conduct for ministers into law, 74% supported greater independence in public appointments, and 70% supported more powers and independence for ethics regulators.<sup>15</sup>
- ◆ The *Constitution Unit* found that 79% agreed that reform is needed so that politicians who do not act with integrity are punished, 57% think an independent regulator should be able to launch an independent investigation if a minister gives a contract to a friend or lied to parliament.<sup>16</sup>

Fundamentally, our system for ensuring the highest standards of ethics and integrity in government has lost the confidence of the public and reform is required. Repeated scandals have become an all too familiar fixture across politics and government and there is widespread public support for ambitious reform.

## **How has the government responded so far?**

Since the publication of the Boardman and CSPL reviews in 2021, government progress on implementing the reviews' recommendations has been primarily based on publishing updated guidance and policy papers. In July 2022 the Cabinet Office issued a statement outlining work carried out in relation to the reviews' recommendations in which it outlined progress so far,<sup>17</sup> which included:

- ◆ new guidance on the declaration and management of outside interests in the Civil Service;<sup>18</sup>
- ◆ a government statement clarifying the constitutional status and remit of the Independent Adviser on Ministers' Interests,<sup>19</sup> as well as new guidance on Ministerial involvement in the contracting process;<sup>20</sup>
- ◆ introducing mechanisms within departments so that breaches of the Business Appointment Rules can be taken into account prior to honours being approved;
- ◆ a new version of the Government's Model Services Contract (for contracts worth over £20 million) with new updated provisions on clarifying suppliers' obligations to declare conflicts of interest;<sup>21</sup>
- ◆ requesting PACAC to undertake a thorough review of the 2014 Lobbying Act and the wider lobbying regime.<sup>22</sup>

The July 2022 statement on Government Transparency and Accountability also hinted at ongoing work being undertaken to improve compliance processes in government departments and mechanisms to ensure better enforcement of the Business Appointment Rules, as well as introducing sanctioning measures for companies which hire individuals in breach of revolving door restrictions.<sup>23</sup> However, eight months on there is no detail on what this work consists of in the public domain.

The improvements made so far, welcome as they are, only incorporate elements of the reviews' recommendations and fall far short of the system-wide overhaul that is needed. Drawing a line under the series of integrity scandals of recent times, from COVID-19 procurement to the Greensill Capital affair (and several others in between), will require wide-ranging and substantial improvements to the UK's creaking patchwork system of ethics codes and regulators. It will involve legislative changes to give ethics regulators more powers to enforce the rules, it will require government departments to be more transparent over ministerial interactions with the private sector, but fundamentally, it will require a shift from the existing 'convention-heavy' approach to ethics regulation to one with a stronger, statutory basis.

## **"Off the shelf" options for reform**

The recommendations made in the Boardman and CSPL reviews provide a substantial opportunity to show that the UK means business on protecting the integrity of its democracy and on upholding the highest standards of governance. The government should:

### **1. Set out a clear timeline on full implementation of the recommendations in Boardman and the CSPL**

The government should publish its response to the two individual reviews (as well as to the PACAC review) at the earliest possible opportunity, indicating a realistic timetable for the full implementation of the reviews' recommendations. Where the government does not choose to take up a recommendation it should publish a detailed statement setting out its reasoning, and any alternative action or mitigating measures.

### **2. Engage with experts and civil society on reforms**

The government needs to urgently set up a working group of civil society organisations and government officials to advance work on improving public standards reform and accountability through the Open Government Partnership. The government should also ensure the standards working group is involved in monitoring implementation of any reforms made.<sup>24</sup>

### **3. Ensure that measures to strengthen public integrity form a key pillar of the government's forthcoming anti-corruption strategy**

The upcoming anti-corruption strategy should lay out an ambitious agenda to upgrade the UK's ethics framework and the regulation and enforcement of corruption in public office.

# Implementation grid

To audit the government's progress on implementing the Boardman and CSPL reviews' recommendations we analysed government statements and evidence given to parliamentary standards committees as well as analysing departmental transparency releases and annual reports.

In assessing whether a recommendation has been implemented we benchmarked our analysis against the following table:



**Implemented.** The government has taken action to implement a review's recommendation with supporting evidence of this in the public domain.

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**Partially implemented.** The government has taken action to implement parts of a recommendation, but not all aspects of a recommendation have been implemented.

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**Not implemented.** The government has declined to implement the recommendation, or has chosen to implement another policy that contradicts a review's recommendation.

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**Unknown.** There is no information in the public domain to ascertain whether the government has implemented a review's recommendation.

# Boardman

\* Recommendations 7 & 8 do not refer to integrity issues

| Recommendations | 1  | 2  | 3  | 4  | 5  | 6  | 7*  | 8*  | 9 | 10 | 11 | 12 |
|-----------------|----|----|----|----|----|----|-----|-----|---|----|----|----|
|                 | ✗  | ✗  | ○  | ✗  | ○  | ○  | N/A | N/A | ✗ | ○  | ✗  | ✗  |
|                 | 13 | 14 | 15 | 16 | 17 | 18 | 19  |     |   |    |    |    |
|                 | ✗  | ✗  | ✗  | ○  | ✗  | ✗  | ✗   |     |   |    |    |    |

| Suggestions | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-------------|---|---|---|---|---|---|---|---|
|             | ✗ | ✗ | ○ | ✗ | ✗ | ✓ | ○ | ✓ |

## 1. Sir Nigel Boardman: Review into the Development and Use of Supply Chain Finance in Government (August 2021)<sup>25</sup>

# CSPL

| Recommendations | 1  | 2  | 3  | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 |
|-----------------|----|----|----|----|----|----|----|----|----|----|----|----|
|                 | ✗  | ✗  | ✗  | ✗  | ✓  | ✓  | ✗  | ○  | ✗  | ○  | ✗  | ✗  |
|                 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
|                 | ✗  | ✗  | ✗  | ✗  | ○  | ?  | ✗  | ✗  | ○  | ✗  | ✗  | ○  |
|                 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 |    |    |
|                 | ✗  | ✗  | ✗  | ✗  | ✗  | ✗  | ○  | ✗  | ✗  | ✗  |    |    |

## 2. The Committee on Standards in Public Life: Upholding Standards in Public Life Final report of the Standards Matter 2 review (November 2021)<sup>26</sup>



# 1. A statutory basis for ethics regulation in government

## CSPL

Recommendations

2



### CSPL Recommendation 2:

The government should pass primary legislation to place the Independent Adviser on Ministers' Interests, (2) the Public Appointments Commissioner, and (3) the Advisory Committee on Business Appointments on a statutory basis.











Not implemented




### Government progress:

In its May 2022 statement on standards in public life, the government reaffirmed ownership of the Office of the Independent Adviser as a "matter for the Executive," and as "wholly separate from the legislature" – thereby ruling out any legislative change to the Office.<sup>27</sup> Leading academics including Sir Peter Riddell (UCL) have argued that a reluctance to legislate for the Office (as well as for the Ministerial Code) reflects an "increasingly presidential view of the Prime Minister's role" in which parliamentary accountability can only be achieved "via the ballot box."<sup>28</sup> The government has not announced plans to legislate to place either the Public Appointments Commissioner or the Advisory Committee on Business Appointments on a statutory footing.

## 2. The Ministerial Code and the Independent Adviser on Ministers' Interests

| CSPL | Recommendations | 3   | 4   | 5   | 6   | 7   | 8   | 9   | 10  |
|------|-----------------|---|---|---|---|---|---|---|---|
|      |                 |  |  |  |  |  |  |  |  |

### 2a Legal status of the Ministerial Code and the Independent Adviser on Ministers' Interests

|   |  |
|---|--|
| <p><b>CSPL Recommendation 3:</b><br/>The Ministerial Code should be reconstituted solely as a code of conduct on ethical standards.</p>   | <br>Not implemented   |
| <p><b>Government progress:</b><br/>As observed by the CSPL, the Ministerial Code is a hybrid document that traces its origins back to the “Questions of Procedure for Ministers” manual that combined guidance on processes for cabinet governance with ethical provisions.<sup>29</sup> The CSPL concluded that this mix “confuses more than it enlightens” and recommended it should be reframed as a code of conduct for ministers in a similar fashion to MPs’ code and underpinned by the Seven Principles of Public Life. The latest version of the Ministerial Code published in December 2022, however, still contains substantial procedural detail which is duplicated from the Cabinet Manual.<sup>30</sup></p>  |  |
| <p><b>CSPL Recommendation 4:</b><br/>A requirement for the Prime Minister to issue the Ministerial Code should be enshrined in primary legislation.</p>   | <br>Not implemented |
| <p><b>Government progress:</b><br/>The CSPL in its Standards Matter 2 review called for a major shift from a “convention-heavy” approach to ethical standards to a system in which key ethics bodies including the Independent Adviser are placed on a statutory footing. The CSPL envisaged that emboldened ethics regulators would better uphold the rules and would be less susceptible to executive interference.<sup>31</sup> The government has said it has considered this recommendation, but argues that legislating for the Code “would undermine the constitutional settlement by conflating the executive and legislature” and would “provide an additional route where the judiciary may also be drawn into such (political) matters that the Government considers to be non-justiciable.”<sup>32</sup> In its report the CSPL acknowledged “fears that a statutory underpinning of standards regulation could lead to a greater incidence of judicial review,” but argued that new legislation which clearly defined the responsibilities of the government and the regulators could prevent groups taking the government to court for breaches of convention.<sup>33</sup> Constitutional experts have highlighted that the current status of the code “sets up an accountability paradigm which is entirely premised on the fact that it is a matter of the Prime Minister’s own moral calculation whether to resign.”<sup>34</sup></p> |  |
| <p><b>CSPL Recommendation 5:</b><br/>The Independent Adviser should be consulted in any process of revision to the Ministerial Code.</p>  | <br>Implemented     |
| <p><b>Government progress:</b><br/>The latest version of the Ministerial Code confirms that the Independent Adviser will be consulted on any future revisions to the code.<sup>35</sup></p>   |  |

## 2. The Ministerial Code and the Independent Adviser on Ministers' Interests (continued)

### 2b Sanctions for breaching the Ministerial Code

#### CSPL Recommendation 6:

The Ministerial Code should detail a range of sanctions the Prime Minister may issue including, but not limited to, apologies, fines, and asking for a minister's resignation.



Implemented

#### Government progress:

The CSPL recommended introducing a range of sanctions for breaches of the Ministerial Code to better reflect the relative seriousness of each case and to move away from a binary system whereby every breach resulted in a ministerial resignation. The new version of the Ministerial Code published in December 2022 has been updated to reflect the CSPL's recommendation and outlines a range of sanctions available to the Prime Minister including requiring a public apology, remedial action, or removal of ministerial salary for a period.<sup>36</sup>

### 2c Appointment of the Independent Adviser on Ministers' Interests

#### CSPL Recommendation 7:

The Independent Adviser should be appointed through an enhanced version of the current process for significant public appointments.



Not implemented

#### Government progress:

The CSPL called for a greater degree of independence over the appointment of the Independent Adviser to promote public confidence in their ability to discharge their duties without bias. In May 2022 the government confirmed the Prime Minister would retain the power to appoint the Independent Adviser.<sup>37</sup>

### 2d Powers of the Independent Adviser to initiate investigations, determine breaches and publish results

#### CSPL Recommendation 8:

The Independent Adviser should be able to initiate investigations into breaches of the Ministerial Code.



Partially implemented

#### Government progress:

While the wording around the Independent Adviser's powers to initiate investigations has changed in the latest version of the Terms of Reference (ToR) document, it is still a requirement for the adviser to consult the Prime Minister "*who will normally give his consent.*"<sup>38</sup> Lord Geidt, however, giving oral evidence to PACAC in June 2022 claimed that while the Prime Minister may withhold consent on grounds such as national security or legal privilege, the ability of the Independent Adviser to publish that consent should act as a safeguard in practice.<sup>39</sup>

## 2. The Ministerial Code and the Independent Adviser on Ministers' Interests (continued)

### 2d Powers of the Independent Adviser to initiate investigations, determine breaches and publish results (continued)

#### CSPL Recommendation 9:

The Independent Adviser should have the authority to determine breaches of the Ministerial Code.



Not implemented

#### Government progress:

The CSPL argued that granting the Adviser the authority to determine a finding of a breach (while asserting the Prime Minister's right to select from a range of sanctions) would uphold the integrity of the code. Section 2.3 of the latest ToR rejects such a change and confirms the role of the Prime Minister as the "ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards."<sup>40</sup> Additionally, section 2.4 confirms the role of the adviser is to offer guidance to the PM with respect to a potential breach – "If the Prime Minister determines that there has been a breach of the Ministerial Code, the Independent Adviser may recommend in confidence to the Prime Minister what sanction should be considered as a result."<sup>41</sup>

#### CSPL Recommendation 10:

The Independent Adviser's findings should be published no more than eight weeks after a report has been submitted to the Prime Minister.



Partially implemented

#### Government progress:

The latest version of the Independent Adviser's terms of reference states that the outcome of an investigation will be published "in a timely manner."<sup>42</sup> This falls short of committing to publish the results of any investigation within a maximum eight week period, as recommended by the CSPL.

### 3. Departmental Codes of Conduct and the Civil Service

#### Boardman

| Recommendations | 1 | 2 | 3 | 4 | 9 | 10 |
|-----------------|---|---|---|---|---|----|
|                 | ✘ | ✘ | ○ | ✘ | ✘ | ○  |



  

| Suggestions | 1 | 2 | 3 |
|-------------|---|---|---|
|             | ✘ | ✘ | ○ |


#### CSPL

| Recommendations | 1 |
|-----------------|---|
|                 | ✘ |

#### 3a Cross-government compliance function

|  |  |
|--|--|
| <p><b>Boardman #2 Recommendation 1:</b><br/>That government should establish an effective method for ensuring compliance with governance processes and the wider regulatory framework.</p>   | <br>Not implemented |
| <p><b>CSPL Recommendation 1:</b><br/>The Civil Service should review its approach to enforcing ethical standards across government, with a view to creating a more rigorous and consistent compliance system, in line with the recommendation of the Boardman report.</p>  | <br>Not implemented |
| <p><b>Government progress:</b><br/>The shift to a centralised, compliance-based system has been discussed by Ministers but no proposal has been brought forward.<sup>43</sup> As recently as June 2022, the Civil Service’s Director General for Propriety &amp; Ethics expressed doubts over installing a private sector “compliance mindset” into a non-financial setting such as government.<sup>44</sup></p> |  |

#### 3b Cross-government compliance reviews

|  |  |
|--|--|
| <p><b>Boardman #2 Suggestion 1:</b><br/>That government should establish a regular cycle of compliance reviews.</p>  | <br>Not implemented |
| <p><b>Government progress:</b><br/>Boardman proposed a system of compliance reviews led by the Minister for the Cabinet Office to ensure the government processes kept pace with best compliance practices such as those set by the OECD. Such reviews would be undertaken every five years and made publicly available. There is no information in the public domain that the Cabinet Office is undertaking such reviews.</p> |  |

## 3. Departmental Codes of Conduct and the Civil Service (continued)

### 3c Departmental codes of conduct

#### Boardman #2 Suggestion 2:

That the Code of Conduct for Board Members of Public Bodies and the Corporate Governance Code for central government departments should be given a statutory basis.



Not implemented

#### Government progress:

Boardman suggested that central government codes of conduct should be placed on a statutory footing “*when a suitable legislative opportunity arises.*” However, the government has not announced any legislative proposals that would result in either code being placed on a statutory footing.

### 3d Conflicts of interest in the Civil Service

#### Boardman #2 Recommendation 3:

That government should further improve the management and monitoring of conflicts of interest in the Civil Service.



Partially implemented

#### Government progress:

The government published updated guidance in 2022 on civil servants' outside interests and the handling of conflicts of interest.<sup>45</sup> The guidance contains enhanced detail on mitigation strategies, instructions on how declarations should be managed and stored, as well as information on the allocation of departmental roles and responsibilities for civil servants, line managers, HR directors, Audit & Risk committee members and Permanent Secretaries.<sup>46</sup> This update was flagged in Boardman's second review as already in motion prior to the publication of his findings.<sup>47</sup> Boardman additionally recommended that Non-Executive Directors (NEDs) and unregulated direct appointees should have any conflict of interest declarations published. Media reports from March 2023 revealed that the Health Secretary hired an adviser with links to private health companies,<sup>48</sup> but there is no record of his conflict of interest declaration in the public domain, suggesting progress in this area is partial. Additionally, our research into government departments' conflicts of interest policies show widely varying approaches both in terms of who falls within the provisions and on potential mitigation measures.<sup>49</sup>

#### Boardman #2 Suggestion 3:

Securities dealings by civil servants.



Partially implemented

#### Government progress:

Boardman recommended a two-tier approach whereby civil servants with “access to policy making discussions and to procurement decisions” should be subject to enhanced rules including the requirement to seek prior approval and declare shareholdings annually. Following Boardman's recommendation, the second tier of rules would be applied to all civil servants, and would require them to refrain from entering into transactions if they were in possession of confidential information. This two-tier approach, however, is not reflected in the new Cabinet Office guidance published in June 2022 on civil servants' outside interests, which requires only senior civil servants to confirm their interests on an annual basis.<sup>50</sup> This means that there remains the risk that less senior civil servants who have access to price sensitive information are not captured under the new guidance.

### 3. Departmental Codes of Conduct and the Civil Service (continued)

#### 3d Conflicts of interest in the Civil Service (continued)

**Boardman #2 Recommendation 10:**

That the application process for secondary employment for civil servants should be more transparent and clearly regulated.



Partially implemented

**Government progress:**

The new civil service guidance clarifies that senior civil servants should seek line manager approval before taking up additional employment outside the Civil Service (as stipulated in the Civil Service Management Code)<sup>51</sup> but does not deliver on Boardman's recommendation that secondary employment approvals for Senior Civil Servants should be published.

#### 3e Civil service appointment rules, recruitment and retention

**Boardman #2 Recommendation 2:**

That government should introduce pre-appointment rules which, for a period of time, prevent civil servants from dealing with or promoting their former employer after joining the Civil Service.



Not implemented

**Government progress**

Updated Cabinet Office guidance published in June 2022 does not include rules on newly appointed civil servants promoting their former employer.<sup>52</sup> Existing civil service recruitment processes require civil servants to demonstrate compliance with the Civil Service Code on their appointment,<sup>53</sup> but this obligation falls short of specific pre-appointment rules as called for by Boardman.

**Boardman #2 Recommendation 9:**

That government undertakes a follow up review to the Baxendale Report reviewing the experience of external hires into the Civil Service to ensure that impediments to effective recruitment and retention are eliminated, and that this exercise be repeated at regular intervals.



Not implemented

**Government progress**

The government has not committed to undertake such a review. While it has published Civil Service Pay Remit guidance for 2022 and 2023,<sup>54</sup> and a Civil Service Diversity and Inclusion Strategy: 2022 to 2025,<sup>55</sup> it has not announced a specific review into recruitment and retention issues.<sup>56</sup> One month prior to the publication of Boardman's review, however, the government outlined plans to address the turnover of civil servants in its Declaration on Government Reform.<sup>57</sup>

#### 3f Whistleblowing in the Civil Service

**Boardman #2 Recommendation 4:**

That government should strengthen whistleblowing processes in the Civil Service.



Not implemented

**Government progress**

The updated Cabinet Office guidance for civil servants does not propose any specific update with regard to whistleblowing, instead referring to previous Cabinet Office guidance from 2019 and 2021<sup>58</sup> based on whistleblowing in the specific context of a procurement decision. The government announced in March 2023 that it is reviewing the whistleblowing framework but it is not known when it will conclude its review and publish its findings and recommendations.<sup>59</sup>

## 4. Business Appointment Rules and the Advisory Committee on Business Appointments (ACOBA)

|                 |                 |    |    |    |    |    |    |    |  |
|-----------------|-----------------|----|----|----|----|----|----|----|--|
| <b>Boardman</b> | Recommendations |    | 11 | 12 |    |    |    |    |  |
|                 |                 |    |    |    |    |    |    |    |  |
| <b>CSPL</b>     | Recommendations |    |    |    |    |    |    |    |  |
|                 | 11              | 12 | 13 | 14 | 15 | 16 | 17 | 18 |  |
|                 |                 |    |    |    |    |    |    |    |  |



### 4a Business Appointment Rules - time limits and sector restrictions

|   |                     |
|---|---------------------|
| <p><b>CSPL Recommendation 11:</b><br/>The Business Appointment Rules should be amended to prohibit for two years appointments where the applicant has had significant and direct responsibility for policy, regulation, or the awarding of contracts relevant to the hiring company.</p>  | <br>Not implemented |
| <p><b>CSPL Recommendation 12:</b><br/>The Business Appointment Rules should be amended to allow ACOBA and government departments to issue a ban on lobbying of up to five years.</p>  | <br>Not implemented |
| <p><b>CSPL Recommendation 13:</b><br/>The lobbying ban should include a ban on any work for lobbying firms within the set time limit.</p>   | <br>Not implemented |
| <p><b>Government progress:</b><br/>The Business Appointment Rules were last updated in 2016.<sup>60</sup> In a letter to the ACOBA chair from June 2022, Lord True confirmed that the government remained committed to an employment law system to enforce the rules, rather than a “bespoke legislative solution.”<sup>61</sup> In September 2022 the Minister of State for the Cabinet Office announced the government was reviewing the Rules but did not provide any additional information on when the review would be concluded and its results published.<sup>62</sup></p> |                     |





## 4. Business Appointment Rules and the Advisory Committee on Business Appointments (ACOBA) (continued)

### 4b Business appointment rules - enforcement and sanctions



|   |  |
|---|--|
| <p><b>Boardman #2 Recommendation 11:</b><br/>That government makes post employment restrictions on civil servants and ministers legally binding.</p>  | <br>Not implemented |
| <p><b>CSPL Recommendation 14:</b><br/>The government should make adherence to the Business Appointment Rules an enforceable legal requirement for ministers, civil servants, and special advisers, and set out what the consequences for a breach of contract may be.</p>   | <br>Not implemented |
| <p><b>Government progress:</b><br/>The head of the Civil Service's Propriety and Ethics team indicated in June 2022 that Ministers were considering measures to better enforce the Business Appointment Rules.<sup>63</sup> In the same month, Lord True confirmed that the government preferred contractual-based approaches rather than “bespoke legislative solutions.”<sup>64</sup> In July 2022 the government claimed it was “taking action” to improve the enforcement of the Business Appointment Rules.<sup>65</sup> Three months later, the Minister of State for the Cabinet Office Edward Argar announced the government was reviewing the Business Appointment Rules, but did not provide any additional information on when the review would be concluded and its results published.<sup>66</sup></p> |  |

### 4c A new regulator of business appointments


|   |  |
|---|--|
| <p><b>CSPL Recommendation 15:</b><br/>ACOBA rulings should be directly binding on applicants.</p>   | <br>Not implemented |
| <p><b>CSPL Recommendation 16:</b><br/>ACOBA should have the power to undertake investigations into potential breaches of the Business Appointment Rules, and be granted additional resources as necessary. The Cabinet Office should decide on sanctions or remedial action in the case of a breach.</p>  | <br>Not implemented |
| <p><b>Government progress:</b><br/>The CSPL envisaged ACOBA rulings being binding on applicants following it being placed on a statutory footing. This would enable it to undertake formal regulatory functions including undertaking investigations into breaches of the Business Appointment Rules.<sup>67</sup> The government has not announced plans to place ACOBA on a statutory footing or a way to make its recommendations legally binding on applicants.</p> |  |

## 4. Business Appointment Rules and the Advisory Committee on Business Appointments (ACOBA) (continued)

### 4d Application of the rules in government departments

|   |  |
|---|--|
| <p><b>CSPL Recommendation 17:</b><br/>Government departments should publish anonymised and aggregated data on how many applications under the Business Appointment Rules are submitted, approved, or rejected each year.</p>  |  <p>Partially implemented</p> |
| <p><b>Government progress:</b><br/>In correspondence to the ACOBA chair from June 2022, Lord True suggested that in future departmental reports and accounts will include information on how they have applied the Business Appointment Rules within their departments.<sup>68</sup> The Cabinet Office, for example, in its latest report publishes the number of applications submitted by former permanent secretaries and former special advisers but does not give a breakdown of how many applications were approved or rejected as recommended by Boardman.<sup>69</sup></p> |  |
| <p><b>CSPL Recommendation 18:</b><br/>The Cabinet Office should ensure the Business Appointment Rules are applied consistently across all government departments, and work with ACOBA to promote best practice and awareness of the rules.</p>  |  <p>Unknown</p>               |
| <p><b>Government progress:</b><br/>The Cabinet Office has not announced the results of trials it conducted with other government departments to improve processes relating to civil servants leaving government.</p>  |  |

### 4e Advisory Committee on Business Appointments (ACOBA) - Cooperation and Enforcement

|   |  |
|---|--|
| <p><b>Boardman #2 Recommendation 12:</b><br/>That government works with ACOBA to develop a Memorandum of Understanding that sets out more clearly how they can work more effectively together.</p>  |  <p>Not implemented</p> |
| <p><b>Government progress:</b><br/>The government has not announced plans for a Memorandum of Understanding. In 2021 the government announced that the Cabinet Office was leading a programme of work with the Chair of ACOBA “to improve: the scope and clarity of the Rules; the consistency and proportionality of their implementation across government; and enforcement of the Rules.”<sup>70</sup></p> |  |

## 5. Public appointments

### Boardman

Recommendations

5



### CSPL

Recommendations

19

20

21

22

23

24

25



#### 5a Regulation of public appointments

##### CSPL Recommendation 19:

The Governance Code for Public Appointments should be amended to make clear that ministers should not appoint a candidate who is deemed unappointable by an assessment panel, but if they do so, the minister must appear in front of the relevant select committee to justify their decision.



Not implemented

##### CSPL Recommendation 20:

The Governance Code should be amended so that ministers must consult with the Commissioner for Public Appointments on the composition of all panel members for competitions for significant appointments.



Not implemented

##### CSPL Recommendation 21:

Senior Independent Panel Members should have a specific duty to report to the Commissioner on the conduct of significant competitions.



Not implemented

##### Government progress:

The CSPL drew attention to the risks of ministerial influence in the public appointments process and recommended updating the Governance Code on Public Appointments to protect the credibility and integrity of the appointments process by introducing new requirements on ministers to justify nominations, strengthen the role of Senior Independent Panel Members (SIPMs) and place the office of the Commissioner for Public Appointments on a statutory footing. However, the Governance Code on Public Appointments was last updated in 2016,<sup>71</sup> and the government has not announced plans to legislate to place the Commissioner on a statutory footing.

## 5. Public Appointments (continued)

### 5b Appointment process for heads of ethics watchdogs

#### CSPL Recommendation 22:

The chairs of ACOBA and the House of Lords Appointments Commission (HOLAC), the Registrar of Consultant Lobbyists, the Commissioner for Public Appointments and the Independent Adviser on Ministers' Interests should all be appointed through the process for significant public appointments, and the assessment panel for each should have a majority of independent members.



Not implemented

#### Government progress:

The CSPL recommended that given their constitutional significance, the heads of all the standards regulators should be subject to the regulated appointments process. Currently the chairs of ACOBA and HOLAC, and the Registrar of Consultant Lobbyists, are appointed through this process while the Commissioner for Public Appointments and the Independent Adviser are both direct ministerial appointments. The government ruled out changing the appointment process for the Independent Adviser in May 2022, while the Commissioner for Public Appointments was appointed by the government on a fixed five year term in 2021 and no information on the upcoming appointment has been announced.

#### CSPL Recommendation 23:

Chairs of standards committees should chair assessment panels for the appointment of their independent members.



Not implemented

#### Government progress:

The Governance Code on Public Appointments in its present form leaves discretion to ministers to agree the composition of the Panel and the Panel Chair.<sup>72</sup> The code has not been updated since 2016.

### 5c Direct ministerial appointments

#### Boardman #2 Recommendation 5:

That direct ministerial appointments, whether or not remunerated, need a clearer and more transparent process, set out in a new Code of Practice which makes clear the expectations on both departments and appointees and reaffirms that express Ministerial approval is required.





Partially implemented

#### Government progress:

Boardman called for the creation of a new Code of Practice to bring clarity and transparency to the appointment process, with Ministers required to explain candidates' suitability for the role. In May 2022 the Cabinet Office published an updated policy paper on Ministerial 'direct appointments' for individuals to non-statutory offices clarifying that all appointees are required to follow the *Seven Principles of Public Life* and to adhere to the *Code of Conduct for Board Members of Public Bodies*.<sup>73</sup> This update guidance, however, fell short of introducing a new Code of Practice as called for by Boardman.<sup>74</sup>

## 5. Public Appointments (continued)

### 5d Transparency relating to direct ministerial appointments

|  |  |
|--|--|
| <p><b>CSPL Recommendation 24:</b><br/>Government departments should publish a list of all unregulated and regulated public appointments.</p>   | <br>Partially implemented |
| <p><b>Government progress:</b><br/>The CSPL expressed its concern over the increase of new posts appointed by Ministers that fall out of scope of supervision of the Commissioner for Public Appointments. While CSPL accepted that it is appropriate that certain appointments (such as heads of short-term policy reviews, certain policy “tsars” or trade envoys) fall outside the appointment rules, there should nevertheless be greater departmental transparency on the number and nature of such appointments. While departments generally do publish details on appointments of non-executive directors (NEDs) there is currently no consistent, cross government approach to publication which captures the full range of direct appointments. Guidance issued in May 2022 confirms that all direct appointees are subject to the Seven Principles of Public Life and are required to adhere to the Code of Conduct for Board Members of Public Bodies.<sup>75</sup></p> |  |
| <p><b>CSPL Recommendation 25:</b><br/>The appointments process for Non-Executive Directors of government departments should be regulated under the Governance Code for Public Appointments.</p>  | <br>Not implemented       |
| <p><b>Government progress:</b><br/>The latest version of the Governance Code on Public Appointments was published in 2016.<sup>76</sup></p>  |  |

## 6. Lobbying

### Boardman

| Recommendations | 13 | 14 | 15 | 16 | 17 |
|-----------------|----|----|----|----|----|
|                 |    |    |    |    |    |

| Suggestions | 4 | 5 | 6 | 7 | 8 |
|-------------|---|---|---|---|---|
|             |   |   |   |   |   |

### CSPL


| Recommendations | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 |
|-----------------|----|----|----|----|----|----|----|----|----|
|                 |    |    |    |    |    |    |    |    |    |

#### 6a Quality of government transparency releases


|   |  |
|---|--|
| <p><b>CSPL Recommendation 26:</b><br/>The Cabinet Office should collate all departmental transparency releases and publish them in an accessible, centrally managed and searchable database.</p>  |  |
| <p><b>Government progress:</b><br/>Transparency data is published in a decentralised manner by individual departments.</p>  |  |
| <p><b>CSPL Recommendation 27:</b><br/>The Cabinet Office should provide stricter guidelines on minimum standards for the descriptions of meetings and ensure compliance by government departments.</p>  |  |
| <p><b>Government progress:</b><br/>The Cabinet Office has not published such guidance.</p>  |  |
| <p><b>CSPL Recommendation 28:</b><br/>The government should publish transparency returns monthly, rather than quarterly, in line with the MPs' and peers' registers of interests.</p>   |  |
| <p><b>Government progress:</b><br/>Departmental transparency returns continue to be published quarterly. In December 2022, in a speech given by Penny Mordaunt MP during a debate on standards, she announced that the government would move to a monthly reporting system by Summer 2023.<sup>77</sup></p> |  |

## 6. Lobbying (continued)



### 6a Quality of government transparency releases (continued)

|   |  |
|---|--|
| <b>Boardman #2 Recommendation 13:</b><br>That government strengthens its transparency reporting.  | <br>Not implemented |
| <b>Government progress:</b><br>Most government departments continue to publish transparency data at three-month intervals falling short of Boardman's recommendation of "more frequent returns." As stated in the previous box, the government has committed to introducing monthly reporting by Summer 2023. <sup>78</sup> In addition, departments often do not include sufficient detail of a meeting's purpose which as per Boardman's framing does not "enable a reader reasonably to be able to understand the purpose of the meeting and who was present at it." |  |

### 6b Transparency requirements for senior civil servants




|  |  |
|--|--|
| <b>CSPL Recommendation 29:</b><br>The government should include meetings held between external organisations, directors general, and directors in transparency releases. | <br>Not implemented |
| <b>Government progress:</b><br>Most departmental transparency returns only list meetings held by individuals at permanent secretary level and above.                     |  |

### 6c Transparency requirements for Special advisers


|  |  |
|--|--|
| <b>CSPL Recommendation 30:</b><br>The government should include meetings held between external organisations and special advisers in transparency releases.  | <br>Not implemented |
| <b>Government progress:</b><br>Departmental transparency returns do not publish full diaries of special advisers' external meetings.   |  |
| <b>Boardman #2 Suggestion 4:</b><br>That government should consider extending transparency requirements to special advisers and to a wider group of civil servants with substantial policy responsibilities. | <br>Not implemented |
| <b>Government progress:</b><br>Departmental transparency returns only contain details of special advisers' engagements with the media.   |  |

## 6. Lobbying (continued)

### 6d Informal lobbying

|   |  |
|---|--|
| <p><b>Boardman #2 Recommendation 15:</b><br/>That government publishes an appropriate set of principles to define when an interactive communication should be deemed official business and therefore disclosed.</p>   | <br>Not implemented   |
| <p><b>Government progress:</b><br/>Government guidance published in March 2023 on the use of non-corporate communication channels (e.g. WhatsApp, private email, SMS) for government business restates that all government communications "<i>belong to the Crown and must be handled lawfully.</i>"<sup>79</sup> The guidance, however, falls short of Boardman's recommendation for a set of principles that would result in exchanges deemed as government business but held on such channels to be later published on departmental registers.</p> |  |
| <p><b>CSPL Recommendation 32:</b><br/>The government should revise the categories of published information to close the loophole by which informal lobbying is not disclosed in departmental releases.</p>  | <br>Not implemented   |
| <p><b>Government progress:</b><br/>Departmental transparency returns continue to be structured around the headings "<i>gifts, overseas travel, hospitality and meetings.</i>"</p>   |  |
| <p><b>Boardman #2 Recommendation 14:</b><br/>That government extends the definition of 'meeting' to include all forms of non-public interactive dialogue which, were it face to face, would constitute a meeting requiring inclusion in the transparency return.</p>  | <br>Not implemented |
| <p><b>Government progress:</b><br/>Departmental ministerial meetings declarations do not contain information on the location of a meeting, or whether official business was discussed at a party or social event.</p>   |  |





### 6e Alternative forms of communication

|  |  |
|--|--|
| <p><b>CSPL Recommendation 31:</b><br/>The government should update guidance to make clear that informal lobbying, and lobbying via alternative forms of communication such as WhatsApp or Zoom, should be reported to officials.</p>   | <br>Partially implemented |
| <p><b>Government progress:</b><br/>In March 2023 the government published new guidance on the use of alternative forms of communication including messaging applications which superseded previous guidance on the use of private email in government issued in 2013.<sup>80</sup> Although the guidance establishes that government business should be carried out on government systems and clarifies individuals and departments' record keeping responsibilities when such forms of communication are used for official business, it does not include the specific requirement proposed by the CSPL that lobbying attempts made via such technologies should be reported to officials.</p> |  |






## 6. Lobbying (continued)

### 6f The Register of Consultant Lobbyists

|   |  |
|---|--|
| <p><b>CSPL Recommendation 33:</b><br/>Consultant lobbyists should also have to register on the basis of any communications with special advisers, directors general, and directors.</p>   | <br>Not implemented       |
| <p><b>Government progress:</b><br/>At present the register only requires registration for companies/individuals who communicate with UK Ministers and/or Permanent Secretaries.<sup>81</sup></p>  |  |
| <p><b>CSPL Recommendation 34:</b><br/>Consultant lobbyists should have to declare the date, recipient, and subject matter of their lobbying.</p>  | <br>Not implemented       |
| <p><b>Government progress:</b><br/>Consultant lobbyists only declare their clients on a quarterly basis.<sup>82</sup></p>   |  |
| <p><b>Boardman #2 Recommendation 16:</b><br/>That the requirement to register as a consultant lobbyist should be extended.</p>  | <br>Partially implemented |
| <p><b>Government progress:</b><br/>Guidance issued by The Office of the Registrar of Consultant Lobbyists (ORCL) was updated in May 2022 to include changes to rules on the incidental exception, but not all the extensions to register as a consultant lobbying as called for by Boardman were included.<sup>83</sup></p>   |  |
| <p><b>Boardman #2 Recommendation 17:</b><br/>That the rules regarding the transparency of lobbyists be strengthened.</p>  | <br>Not implemented     |
| <p><b>Government progress:</b><br/>Lobbyists are required to register the names of companies (including the names of all directors and 'shadow' directors or partnerships (including the names of all partners) from whom they have received payment.<sup>84</sup> They are not required to register "the ultimate person paying for, or benefitting from, their lobbying activity" as recommended by Boardman.</p> |  |

## 6. Lobbying (continued)

### 6g Equity in lobbying

|  |  |
|--|--|
| <b>Boardman #2 Suggestion 5:</b><br>That government should further strengthen equity in lobbying.  | <br>Not implemented         |
| <b>Government progress:</b><br>Boardman suggested that government departments develop ways to 'level the playing field' to ensure that consultations are open to the most diverse range of views prior to any decision on policy proposals being taken. He additionally suggested that departments' annual reports contain information on steps they have taken to achieve the broadest possible consultation processes. Government guidance on consultations, however, has not been updated since 2018. <sup>85</sup> |  |
| <b>Boardman #2 Suggestion 6:</b><br>That transparency requirements around lobbying of legislators should be reexamined.  | <br>Implemented             |
| <b>Government progress:</b><br>The Public Administration and Constitutional Affairs Committee has been undertaking post-legislative scrutiny of the Lobbying Act 2014, at the request of the government, although its report is not yet published. <sup>86</sup>   |  |
| <b>Boardman #2 Suggestion 7:</b><br>That the government should consult on whether think tanks, research institutes and lobbying academics should be required to disclose their sources of funding and whether there are circumstances when they ought to be required to register as consultant lobbyists.  | <br>Partially implemented |
| <b>Government progress:</b><br>The Public Administration and Constitutional Affairs Committee has been undertaking post-legislative scrutiny of the Lobbying Act 2014, and has taken evidence from experts relating to disclosures over the source of organisations' funding. <sup>87</sup>  |  |

### 6h Lobbying undertaken on behalf of foreign powers

|  |  |
|--|--|
| <b>Boardman #2 Suggestion 8:</b><br>That legislation should be introduced to regulate lobbying by foreign countries along the lines of the Australian legislation. | <br>Implemented |
| <b>Government progress:</b><br>The National Security Bill will introduce a Foreign Influence Registration Scheme. <sup>88</sup>                                    |  |

## 7. The honours system

### Boardman

Recommendations

6



#### Boardman #2 Recommendation 6:

That government strengthens the oversight of the honours process within departments.



Partially  
implemented

#### Government progress:

In July 2022 the government announced it had introduced mechanisms for breaches of the Business Appointment Rules to be taken into consideration prior to departments approving the award of individual honours.<sup>89</sup> Boardman, however, additionally called for every department to appoint a senior civil servant responsible for managing honours nominations and quality assurance within their department, while receiving ongoing training on the honours processes. It is not clear from the government's statement whether this appointment process has been carried out across government.

## 8. Contractors' engagement with government

### Boardman

Recommendations

18

19



#### Boardman #2 Recommendation 18:

That government impose a contractual prohibition on contractors referring to government contracts in marketing material without government consent.



Not implemented

#### Government progress:

In response to a parliamentary question posed by John Penrose MP in March, the government referred to its July 2022 update on progress implementing the recommendations made in the Boardman and CSPL reports.<sup>90</sup> The statement does not contain an update on new restrictions for suppliers referring to government contracts in marketing material.<sup>91</sup>

#### Boardman #2 Recommendation 19:

That government requires tenderers to disclose any former minister or senior civil servant employed or retained by them and explain the steps they have taken to ensure that they have not thereby obtained an unfair advantage in a procurement exercise.



Not implemented

#### Government progress:

The updated Model Services Contract for suppliers introduced by the government in April 2022 contains new requirements on suppliers to declare potential conflicts of interest but does not require any specific disclosure relating to whether companies have employed or retained former ministers or senior civil servants.<sup>92</sup>

# Endnotes

1. Boardman's review contained 19 recommendations, 2 of which were not related to standards in government and were not considered as part of this review. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1018176/A\\_report\\_by\\_Nigel\\_Boardman\\_into\\_the\\_Development\\_and\\_Use\\_of\\_Supply\\_Chain\\_Finance\\_and\\_associated\\_schemes\\_related\\_to\\_Greensill\\_Capital\\_in\\_Government\\_-\\_Recommendations\\_and\\_Suggestions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018176/A_report_by_Nigel_Boardman_into_the_Development_and_Use_of_Supply_Chain_Finance_and_associated_schemes_related_to_Greensill_Capital_in_Government_-_Recommendations_and_Suggestions.pdf)
2. Upholding Standards in Public Life Final report of the Standards Matter 2 review. The Committee on Standards in Public Life. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1029944/Upholding\\_Standards\\_in\\_Public\\_Life\\_-\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029944/Upholding_Standards_in_Public_Life_-_Web_Accessible.pdf)
3. In total 34 recommendations made by the CSPL and 17 made by Boardman were considered in this review
4. <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a2a1b1>
5. <https://committees.parliament.uk/publications/31830/documents/178915/default/>
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8. Moody's changes the outlook on the UK to negative, affirms Aa3 ratings. Moody's [https://www.moody.com/research/Moodys-changes-the-outlook-on-the-UK-to-negative-affirms-PR\\_469280](https://www.moody.com/research/Moodys-changes-the-outlook-on-the-UK-to-negative-affirms-PR_469280)
9. <https://www.transparency.org.uk/uk-corruption-perceptions-index-2022-score-CPI>
10. See: Trust in politicians at critical low after Iraq war and Hutton. The Independent. <https://www.independent.co.uk/news/uk/politics/trust-in-politicians-at-critical-low-after-iraq-war-and-hutton-544961.html> and Trust in politicians hits an all-time low. The Guardian. <https://www.theguardian.com/politics/2009/sep/27/trust-politicians-all-time-low>
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