
DEVELOPMENTS IN ETHICS IN BRITISH CENTRAL GOVERNMENT¹

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Abstract: This Paper identifies seven positive elements of an *ethics system*, or framework, for public officials – namely, (1) the culture and values prevailing in a country; (2) codes and laws and their enforcement; (3) new institutions to uphold ethics in public life; (4) audit, public accountability and openness; (5) guiding principles and motivation to encourage good conduct; (6) external and internal education and training for public life; and (7) the views of the public in regard to their call for greater trust, honesty, and integrity in public life.

The Paper next discusses in detail each of these seven elements of an *ethics system* in the context of British Central Government. However, these seven elements are deemed appropriate for the Public Service of any country seeking to strengthen its standards of conduct and uphold its ethical responsibilities.

Finally, this Paper concludes with a reference to business companies and the relevance to them of an *ethics system*. For example, there is a defence in the new UK Bribery Act of 2010 (to be implemented on 1st July 2011 and applicable also to foreign corporations doing business in the UK) that, if a business company has procedures in place to prevent corruption (that is, an *ethics system*), it will be treated more leniently.

Keywords: *ethics, values, integrity, british central government, UK Bribery Act 2010, Centre for Business and Public Sector Ethics*

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INTRODUCTION

For the purposes of education in Politics and Public Administration, and for training officials in Public Services, it is useful to have a theoretical framework by which to organise the various elements of an *ethics system*. In the absence of such a framework, the laws and codes relevant to ethical behaviour may be treated separately, without bearing in mind other impinging factors, such as the necessity for, or the recent establishment of, new institutions to deal with, for example, guidance to politicians facing ethical dilemmas on how to reconcile them, or investigations into misconduct by persons in public life.

Accordingly, this Paper sets out such an *ethics framework* as a means of co-ordinating the various aspects of an *ethics system*, deemed appropriate for both education and training, especially of public servants.

In this Paper, the *ethics framework* consists of seven pillars, or main elements, and is illustrated by recent developments in practice in British Central Government, particularly the British Civil Service.

THE POSITIVE APPROACH TO ETHICS IN PUBLIC LIFE

Ethics is the positive side of seeking to uphold standards of conduct and behaviour in modern public life. An ethical system in public life, including in British Central Government, relies on seven elements, or pillars (see *infra. Appendix 1*), which are:

1. the culture and values prevailing in a country.
2. codes and laws and their regulation/enforcement.
3. institutional changes/reforms.
4. audit, public accountability and openness.
5. guiding principles and motivation to encourage good conduct.
6. external and internal education and training for public life.
7. the views of the public with regard to their call for greater trust, honesty and integrity in public and business life.

This Paper will briefly discuss each of these seven elements of an ethical system from the viewpoint of the British Civil Service.

Values in the British Civil Service

The historic 19th Century values underpinning the British Civil Service remain the same today: these values are:

- Integrity
- Honesty
- Objectivity
- Impartiality

Each of these values is described briefly below:

- Integrity: Integrity is putting the obligations of public service before a civil servant's own personal interests.
- Honesty: Honesty is being truthful and open.
- Objectivity: Objectivity means that the civil servant must base his/her decisions on rigorous analysis and the evidence.
- Impartiality: Impartiality means that the civil servant must act solely according to the merits of the case and serve equally well the Governments of different political views.

CODES AND LAWS ON ETHICAL STANDARDS AND ANTI-CORRUPTION

The Civil Service Code

The Civil Service Code is a concise statement setting out the constitutional framework within which all British civil servants work, and the values they are expected to uphold.

The Civil Service Code was first published in 1996. However, a new Civil Service Code was issued in June 2006, reaffirming the above traditional values of integrity, honesty, objectivity, and impartiality.

For the first time, the 2006 Code forms part of the terms and conditions for British civil servants (that is, part of the contractual relationship between a civil servant and his/her employer). The Code also, for the first time, provides for the *Independent Civil Service Commissioners* to consider a complaint directly from a civil servant, rather than upwards through the Civil Service chain of command.

Civil Service Management Code

For British civil servants, there is also a longer Civil Service Management Code (of which the above-mentioned Civil Service Code forms a section). The longer Management Code covers matters such as discipline and other personnel management issues, such as holidays, and sets out the central framework for managing the British Civil Service.

A Code of Conduct for Ministers and their Special Advisers

A Code of Conduct also exists for Ministers (Political-Executive Heads of Departments) and their Special (often political) Advisers.

Laws and Proposed Law Reform in the UK

· A Civil Service Act?

Some people in the UK argued that the Civil Service Code was sometimes broken and Permanent Secretaries (the Executive Heads of British Civil Service Departments) were not upholding the Code sufficiently. Although the Code had some legislative force (Being made under an Order in Council), it lacked the force of a law passed by Parliament.

Therefore, some people in the UK have argued for a Civil Service Act (For example, the UK Committee on Standards in Public Life). Indeed, a new Constitutional Reform and Governance Act (This Bill was published by the British Government on 20 July 2009) was passed in 2010 putting the British Civil Service on a statutory basis by enshrining the core values of the Civil Service (integrity, honesty, objectivity and impartiality) into law, as well as the historic principle of appointment on merit.

· Prevention of Corruption Acts (1889-1916)

These Acts have been reformed by the new UK Bribery Act 2010, which is expected to come into force in April 2011 (see Appendix 2). The reform of the Prevention of Corruption Acts (1889 -1916) was necessary both to update these early laws, but also to meet the requirements of the Convention of the OECD (the Organisation for Economic Co-

Operation and Development) and the United Nations Convention Against Corruption.

- The Official Secrets Acts 1911-1989

This Act covers criminal offences of espionage and leakages of official information by British civil servants.

- The UK Public Interest Disclosure Act 1998²

The background to this Act lies in the recent scandals and disasters of the early 1990s. Inquiries found that workers in the public and private sectors had been aware of a danger but had either been too scared to sound the alarm, or had raised the matter in the wrong way or with the wrong person. For example, the (London) Clapham rail crash Inquiry heard that a railway Inspector had seen the loose wiring which caused the crash, but had said nothing because he did not want to cause trouble.

The Public Interest Disclosure Act relates to broad categories of malpractice which can qualify for protection, such as breaches of civil and criminal law, and dangers to health, safety and the environment. Therefore, the *whistleblower* is protected from retaliation, such as dismissal, if he/she reports a danger, or malpractice which may be being covered up in the organisation.

- The Freedom of Information Act 2000

The Freedom of Information Act gives a *general right of access* to public information and includes Government Departments, schools, and other public bodies.

The Act also places a duty on public authorities to maintain *publication schemes* for the routine release of important information (such as annual reports and accounts).

- Parliamentary Standards Act 2009

This Act was largely a response to a scandal concerning the misuse of financial expenses/allowances by Members of Parliament (MPs) in the

² The Act came into force 2 July 1999.

Westminster House of Commons. The Act, which came into force in part on 21 July 2009, creates the new Independent Parliamentary Standards Authority (IPSA) which assumes responsibility for the management of MPs' expenses.

The Act also creates a criminal offence for MPs concerning the provision of false or misleading information for allowances claims.

Local Government in England and Wales has its own Codes and some laws are also specific to Local Government: for example, the Local Government Act 2000.

INSTITUTIONAL CHANGES/REFORMS

To be effective, codes and laws need appropriate regulation and oversight. In Britain, a new Office of the Parliamentary Commissioner for Standards was introduced at a national level in 1995/6. This Office was set up to advise Members of the House of Commons (MPs) –politicians– who have dilemmas about procedures or conduct, and also to investigate complaints about MPs.

Improved declaration and registration of Members' interests is also part of the new ethical framework for the Westminster Parliament³, such as any Directorships they may hold outside Parliament with business companies.

In addition, an independent Committee on Standards in Public Life⁴ was set up in October 1994. This independent Committee examines concerns about standards of conduct in public office and reports on them to the Government-of-the-day which, in turn, responds to the Reports, and the Government implements those Committee recommendations with which it agrees.

At a Local Government level in England and Wales, the Local Government Act 2000 brought in new institutional arrangements for Standards Committees.

³ The devolution of powers from the Westminster Parliament to Assemblies means that Scotland and Wales have had to introduce some of their own ethical standards and procedures.

⁴ The original Chairman of the Committee on Standards in Public Life was Lord Nolan. The present Chairman is Sir Christopher Kelly.

AUDIT, PUBLIC ACCOUNTABILITY AND OPENNESS

Financial audit in British Central Government and Local Government is crucial to ethical government. Indeed, so many cases of misconduct stem from opportunities faced, or sought, to *get rich quick*.

At a Central Government level, the National Audit Office, under the Comptroller and Auditor General, fulfils the external monitoring role.

Parliamentary Select Committees in Britain also provide external accountability and report upon the performance of Executive Departments of State. In addition, Central Government Departments each have an Internal Accounting Officer (usually the Head of the Department, the Permanent Secretary).

At a Local Government level, the Audit Commission⁵ undertakes the traditional role of external audit.

GUIDING PRINCIPLES IN BRITISH PUBLIC LIFE AND MOTIVATION TO ENCOURAGE GOOD CONDUCT

One Civil Service guiding principle is appointment based on merit (and not political affiliations). However, ethical conduct also requires *motivation* and example from the top: the development of the will of individuals who will wish to serve the public with integrity and to make sacrifices, where relevant, in the public interest.

Suitable personnel management policies, and their implementation, can help to uphold morale and develop motivation, but leadership and example from the top are prerequisites.

Ethics in public, business and professional life are antithetical to self-interest, greed, *jobs for the boys*, corruption and selfishness.

EXTERNAL AND INTERNAL EDUCATION AND TRAINING FOR PUBLIC LIFE

Education and training in universities, centres of expertise (like the Centre for Business and Public Sector Ethics), and within the Public Service, help to create an understanding of why ethical conduct is necessary

⁵ The Local Government Audit Commission is to be abolished by the new UK Coalition Government

to promote sound government; to prevent corruption, and make staff aware not only of Codes and Laws, but also of the consequences of their actions should they not follow *good practice*.

Views of Citizens/the General Public

In Western democracies, the public's role in creating ethical government, and an ethical society, is important. In Britain, Canada, and Spain, there has been some loss of trust in those persons holding public positions, rather than endemic corruption.

Spin in the UK is a term used when politicians or civil servants put a public relations front on unpleasant facts or conceal them instead of giving citizens the truth. Then, citizens later find out the true situation and lose trust in their Government.

CASES OF UNETHICAL BEHAVIOUR IN BRITISH GOVERNMENT

CORRUPTION IN ENGLISH LOCAL GOVERNMENT

In 2002 prison sentences were announced in the worst local government corruption case since the 1970s. Two senior Labour Party Councillors (politicians) in Doncaster, South Yorkshire, and a property developer, were sentenced to a total of 11 years in prison. They were found guilty of taking bribes from the property developer to process a planning application.⁶ Other persons were also found guilty and sentenced.

WHISTLEBLOWING REVEALS FRAUDS IN THE BRITISH CIVIL SERVICE

Since the Public Interest Disclosure Act of 1998 came into force, there has been, it is reported, a 30% increase in the number of Civil Service frauds halted by whistleblowers.⁷

⁶ Due to the name of the town of Doncaster, this corruption scandal has become known as *Donnygate*. See "World Socialist Website "Sentences announced in Britain's *Donnygate* Labour Party corruption case".

⁷ See the website of "Public Concern at Work" (www.pcaw.co.uk) "Whitehall

CARELESSNESS/LOSS OF OFFICIAL INFORMATION

It is a criminal offence under the UK Official Secrets Acts 1911-1989 for a civil servant with confidential information to be careless and lose it. Yet, the Ministry of Defence (MOD) and other Central Government Departments have lost a number of laptop computers and discs containing personal, and confidential, information. In the case of the Ministry of Defence, since 2005, laptop computers have been stolen (having been left foolishly by staff in cars and other insecure places). The laptops contained personal information about thousands of armed forces recruits. Neither Government Ministers nor the affected persons were informed, although the police and the chain of command were told (*Financial Times*, 23 January 2008 “Two more MOD laptops are missing”).

CONCLUSIONS

This Paper has highlighted the seven elements, or pillars, of an *ethics system*, as applied in the British Civil Service. However, these same seven elements are likely to apply, and exist, in the Governments of other countries, but they do need to be upheld rigorously to avoid malpractices by officials and others. The seven elements of an *ethics system* also need to be kept up-to-date as new laws are enacted relevant to public servants, and other changes occur.

With regard to business companies, it is interesting to note that the new UK Bribery Act of 2010 (yet to be implemented some time in 2011) provides a defence for businesses which may be charged with bribery offences. Such offences under this new UK criminal law apply not only to UK companies operating at home and abroad, but also to foreign businesses with operations in the UK (for example, having a UK subsidiary). Under this Act, if the organisation facing bribery charges has in place adequate procedures to prevent bribery, this defence can be argued and punishment would be more lenient.

Therefore, as well as an *ethics system* for education and training in Politics and Public

Administration, it will benefit business companies also to draw up

Frauds: Whistleblowing Saves £2.5 million a year”. *Financial Times*, 23 January 2008 “Two more MOD laptops are missing”.

a similar *ethics system*, particularly if they are likely to come under the terms of the UK Bribery Act. Such an *ethics system* for businesses will need to include details relevant to preventing bribery by their staff; their subsidiaries; their agents; and others likely to be involved. The UK Ministry of Justice is due to publish *Guidance* imminently for commercial companies about procedures that they can put in place to prevent bribery on their behalf. Our Centre for Business and Public Sector Ethics can also assist in establishing a suitable *ethics system* for business companies, as well as for those in the public sector.

APPENDIX 1

7 ELEMENTS, OR PILLARS, OF AN ETHICAL SYSTEM OF GOVERNMENT

1. Codes and/or Laws on Ethical Standards and anti-corruption, etc.
1. Institutional Changes, Reforms to create an ethical framework
1. Audit, Accountability and Openness
1. Guiding Principles and Motivation through leadership/example, encouragement and appropriate procedures
1. External and Internal Education and Training
1. The Views of the Public and the retention of their trust
1. Culture and Values of the society identified as important and reflected in the Codes / laws / principles / education / training and in ethical policies made by Governments and business corporations for a fair, objective and compassionate society

APPENDIX 2

UK BRIBERY ACT 2010

The new UK Bribery Act was enacted on 9 April 2010 and replaces the UK's old piecemeal Prevention of Corruption Acts 1889-1916. The Act is expected to come into force in 2011, but may be delayed due to the change in Government at the 2010 General Election from Labour to the Conservative-Liberal Democrat Coalition Government.

It has been argued that the lack of investigation and prosecution of corruption offences in the UK has been caused partly by the antiquated nature of the old UK law on bribery and corruption.

The new Bribery Act creates a criminal offence for companies and

partnerships if they fail to prevent bribery occurring within the organisation. The only defence is if the company has *adequate procedures* in place to prevent corruption. The failure to prevent bribery offences applies to a foreign company, if it carries on a business, or part of a business, in the UK.

The Act applies to bribery of private persons, as well as Foreign Public Officials.

The intention of the bribery must be that the recipient of the bribe would act in a partial manner or otherwise improperly. However, in regard to a Foreign Public Official, bribery does not need to include an intention that the official will improperly perform his/her duties, nor does the payment need to be made *corruptly* (as required by the American Foreign Corrupt Practices Act).

The new UK Act, like the US Foreign Corrupt Practices Act, prohibits all corrupt payments regardless of whether they are paid directly by the company or, on its behalf, by a third party, that is, indirectly.

It is not just companies and partnerships that need to fear prosecution under the UK Act. Individuals may be found guilty of one of the main criminal offences: for example, senior executives in the company with whose *consent or connivance* the bribery was committed.

The UK Act, unlike the US Foreign Corrupt Practices Act, makes no exception for small facilitation payments (known as *grease* payments) paid to officials to smooth relevant official actions.

In the UK, it is recommended that companies, partnerships and individuals, such as company directors, adopt a zero tolerance culture within the organisation with regard to bribery and corruption.