The Governments Response to the Sixth Report from the Committee on Standards in Public Life

PRESENTED TO PARLIAMENT BY THE PRIME MINISTER BY COMMAND OF HER MAJESTY, JULY 2000

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Chapter One: Introduction

The Committee on Standards in Public Life[1] published its Sixth Report Reinforcing Standards on 12 January 2000, following a wide-ranging enquiry launched in early 1999. The report focused on the implementation of the recommendations contained in the Committees First Report, published in May 1995, while also covering various additional issues.

The Government welcomes the Committees wide-ranging report. Apart from those recommendations which are a matter for Parliament, the response below sets out the Governments view on each of the Committees recommendations and observations. Chapter headings relate to the chapters in the Committees Report.

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1. The Committee on Standards in Public Life was set up in 1994 with the following terms of reference:

To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.
The terms of reference were widened in 1997 when this Government came to office. On 12 November the Prime Minister announced the following additional terms of reference:

To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.
The Committees chairman is Lord Neill of Bladen, QC.

Response to Chapter 3: Members of Parliament

Recommendation 1

The Government should introduce its proposed legislation on the criminal law of bribery as soon as possible in order to remove any uncertainty regarding the scope of the statutory offence of bribery and to make clear that members of both Houses of Parliament, acting in their capacity as members, and those who bribe a member of either House of Parliament fall within its scope.

The Governments proposals to reform the law of corruption were published in a discussion paper on 20 June (*Raising Standards and Upholding Integrity: The Prevention of Corruption: The Governments Proposals for the Reform of the Criminal Law of Corruption in England and Wales*, Cm 4759). The Government intends to legislate as soon as Parliamentary time allows.

The proposals are intended to clarify the existing law by defining what is meant by acting corruptly and by removing any uncertainty about the scope of the offence. It is the Governments intention to include members of both Houses of Parliament within the scope of the proposed legislation.

The Government also accepts the recommendation of the Joint Committee on Parliamentary Privilege under the chairmanship of Lord Nicholls. This was that the new legislation should provide that evidence relating to any offence committed or alleged to be committed under new corruption legislation should be admissible notwithstanding Article 9 of the Bill of Rights. Article 9 states that the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

Recommendation 2

Where a complaint is made to the Parliamentary Commissioner for Standards alleging criminal conduct by an MP and the complaint is neither malicious nor frivolous, then the Parliamentary Commissioner should report to the Committee on Standards and Privileges with a recommendation that the matter be referred to the police for further investigation.

Recommendation 3

Trial procedure in serious, contested cases

1. Where

> **(a) the Parliamentary Commissioner finds a *prima facie* case against an accused MP, the alleged facts of which, if true, would amount to serious misconduct, but**
>
> **(b) the alleged facts are disputed by the accused MP,**

the Parliamentary Commissioner should report to the Committee on Standards and Privileges with a recommendation that the case be referred to a disciplinary tribunal consisting of a legal chairman sitting with either two or four MPs who should be of substantial seniority.

2. Before making a decision about whether to accept the Parliamentary Commissioners recommendation, the Committee on Standards and Privileges should allow the accused MP an opportunity to make representations in respect of that decision.

3. If the Parliamentary Commissioners recommendation is accepted, the accused MP should be provided with financial assistance to enable him or her to fund legal representation at the hearings of the tribunal.

4. The tribunal should be governed by procedures that satisfy the minimum standards of fairness, as defined by the Nicholls Committee.

5. The tribunal should both act as fact-finder and decide whether, on the basis of the facts found, the charges against the accused MP are proved.

6. The tribunal should report its conclusions to the Committee on Standards and Privileges and, assuming no appeal is being lodged, the Committee should consider what penalty (if any) should be recommended to the House of Commons.

Recommendation 4

Appeal procedure in serious, contested cases

1. An accused MP who receives an adverse ruling from the first instance tribunal should have a right of appeal and should be entitled to financial assistance to pursue that appeal.

2. The appeal should be heard by an ad hoc appellate tribunal, possibly a retired senior appellate judge sitting alone.

3. If the appeal is dismissed, the Committee should report the result of the appeal to the House of Commons along with any recommendation as to penalty.

Recommendation 5

Trial and appeal procedure in other contested cases

1. In cases which, in the opinion of the Parliamentary Commissioner, do not warrant a referral to the full tribunal, the Parliamentary Commissioner should make a recommendation to the Committee on Standards and Privileges accordingly. The Committee should decide whether to uphold the recommendation of the Commissioner on the basis of the Commissioners report and of the representations (if any) by the accused MP.

2. In those cases that remain with the Parliamentary Commissioner, the Commissioner should investigate the complaint and, on the basis of the facts found, decide whether the complaint should be upheld or dismissed. The Commissioners decision should be reported to the Standards and Privileges Committee, which should, in turn, decide whether or not to adopt the Commissioners report and what penalty (if any) should be recommended to the House.

3. In cases where an accused MP disputes the Commissioners findings or conclusions, that MP should be able to appeal against the Commissioners decision, such an appeal to be heard either by the Committee itself or by such ad hoc appellate body as it decides to appoint.

Recommendation 6

Disciplinary procedure in non-contested cases

In non-contested cases, whether serious or minor, the Parliamentary Commissioner should, in accordance with present practice, report the (undisputed) facts and conclusions based on those facts to the Committee on Standards and Privileges which, if it endorses the report, should recommend to the House of Commons what penalty (if any) should be imposed.

Recommendation 7

The disciplinary proceedings of the House of Commons should be held in public but should not be broadcast. This recommendation as to hearings in public does not extend to the private deliberations of the Standards and Privileges Committee on or of any disciplinary or appellate tribunal (which should remain private).

Recommendation 8

The House of Commons should take measures in relation to the Committee on Standards and Privileges, with a view:

> **(a) to ensuring that a substantial proportion of its members are senior MPs; and**
>
> **(b) to exempting the Committee from the convention that its chairman should be drawn from the government benches.**

Recommendation 9

The ban on paid advocacy should be retained.

Recommendation 10

The guidelines relating to the ban on paid advocacy, set out in the *Guide to the Rules relating to the Conduct of Members*, should be amended so as to make it possible for an MP who has a personal interest to initiate proceedings which relate in a general way (and not exclusively) to that interest, subject to the following safeguards:

> **the MP is prohibited from engaging in paid advocacy on behalf of that interest;**
>
> **he or she is required to register and declare the interest in accordance with the guidelines; and**
>
> **he or she must identify his or her interest on the Order Paper (or Notice Paper) by way of an agreed symbol when initiating a debate.**

The Government is grateful for the thorough consideration the Committee has given to these matters. However, the Government is mindful that it has said that this is a matter solely for the House of Commons, on the advice of the Committee on Standards and Privileges. The Government has some reservations about the detail of these recommendations, but, as the Committee suggests, will await any further comments on this by the Committee on Standards and Privileges.

Response to Chapter 4: Ministers

Recommendation 11

Paragraph 123 of the Ministerial Code should be amended to make it clear that a Minister, having had the advice of his or her Permanent Secretary on potential conflicts of interests, must take full responsibility for any subsequent decision.

The Government agrees with this recommendation and will amend paragraph 123 when the Ministerial Code is next issued. Paragraph 1 of the Ministerial Code makes it clear that it is for individual Ministers to judge how best to act in order to uphold the highest standards. They are responsible for justifying their conduct to Parliament. Any advice given to a Minister by a civil servant in relation to any aspect of the Ministerial Code is given in confidence, and that confidence must be respected. The ultimate decision on how to act rests with the individual Minister concerned, who must take full responsibility for his or her actions.

Recommendation 12

No new office for the investigation of allegations of ministerial misconduct should be established.

The Government agrees with the Committee that there is no single approach to the investigation of allegations of ministerial misconduct that would be helpful in all cases. Against this background, the Government welcomes the Committees conclusion that no new office for the investigation of allegations of ministerial misconduct should be established. The Government agrees with the Committee that it would be undesirable to fetter the Prime Ministers freedom to decide how individual cases should be handled. The way in which allegations against an individual should be handled depends on the circumstances and seriousness of the case. The current system allows that flexibility. It also enables allegations to be handled speedily if the situation requires it.

Recommendation 13

The final three sentences in section 1 of the Ministerial Code should be redrafted to clarify the role of the Prime Minister. It will be for the Prime Minister to determine the precise wording but we suggest the following text:

> **It will be for individual Ministers to judge how best to act in order to uphold the highest standards. They are responsible for justifying their conduct to Parliament and retaining its confidence. The Prime Minister remains the ultimate judge of the requirements of the Code and the appropriate consequences of breaches of it.**

In formulating the Ministerial Code, the Government took account of the recommendation relating to the accountability of Ministers made by the Committee in its First Report and the then Governments response. The Government believes that it must be for individual Ministers to judge how best to act in order to uphold the highest standards, taking account of the requirements of the Ministerial Code and their ministerial responsibilities, and any advice from the permanent head of their department. Ministers may also seek the advice of the Prime Minister or the Head of the Civil Service if they are in any doubt about how to handle a particular issue. Having made this decision, it is for Ministers to account to Parliament for their actions. Ministers can only remain in office for so long as they retain the confidence of the Prime Minister. There is no gap in the lines of accountability. The Government firmly believes that this is the right approach.

Recommendation 14

The presentation of section 1 of the Ministerial Code should be improved to reflect its importance as a statement of the ethical principles governing ministerial conduct. In particular the final three sentences, redrafted as suggested above, should be clearly distinguished from the preceding text.

The Government agrees with the Committee on the importance of this section of the Ministerial Code. It sets out Ministers responsibilities in relation to Parliament, the Civil Service and the public, and it incorporates the Seven Principles of Public

Life and the terms of a Parliamentary Resolution on Ministers responsibilities to Parliament. The Government agrees with the Committee that the final paragraph of this section should be revised to give greater prominence to these key principles, when the Code is next issued.

Response to Chapter 5: Civil Servants

Recommendation 15

Permanent heads of department and heads of profession, in conjunction with the Centre for Management and Policy Studies, should ensure that there are training and induction opportunities for those appointed on secondments or on short-term contracts to middle management or senior civil service levels at which ethical issues within the public sector are examined.

The Government attaches importance to interchange between other sectors and the Civil Service. It agrees that, with the continuing extension of the opportunities for non-career civil servants to join the senior levels of the Civil Service on secondment, short-term contract or indeed as permanent civil servants, training has a role to play in ensuring that new recruits understand and observe the ethos of the public sector.

From July 2000, the Centre for Management and Policy Studies (CMPS) is offering a course designed for external entrants to the Senior Civil Service. This new programme focuses on what it means to work at a senior level in the public sector. In particular, it draws on the value statement for the Civil Service, which was developed as part of the Civil Service Reform Programme. The value statement states that all staff should act with integrity, propriety and political impartiality, and select on merit. In addition, a module of the existing CMPS foundation course for external entrants at former Grade 7 level now focuses on ethics and propriety, and looks at the work of the Committee on Standards in Public Life.

Recommendation 16

The arrangements for validating the performance of permanent heads of department and agencies against their personal objectives need to be subject to further scrutiny but should be structured to allow for some element of independent validation so as not to undermine political impartiality.

The Government agrees strongly that the performance pay arrangements for permanent heads of departments and agencies should not undermine political impartiality. As the Committees report recognises, senior pay arrangements are being revisited as part of the Civil Service Reform Programme. Independent evaluation of performance against agency key targets is already required where these are linked to Chief Executives pay. The Government will consult the independent Remuneration Committee before making changes to the current system and will ensure that an element of independent validation is retained in any future system.

Recommendation 17

A timetable for the implementation of the Governments commitment to a Civil Service Act should be produced as soon as possible. In particular a target date should be set for the process of consultation on the scope of such an Act.

The Government remains committed to the introduction of Civil Service legislation. This will reaffirm and embed the principle that civil servants should be selected on merit on the basis of fair and open competition with responsibility for ensuring this continuing to be vested in the Civil Service Commissioners. It is also committed to consultation in advance of the introduction of such legislation. No Government is, however, able to commit itself firmly to a detailed timetable in respect of the future legislative programme.

Response to Chapter 6: Special Advisers

Recommendation 18

The Ministerial Code should be amended to reflect the fact that in certain circumstances more than two special advisers per Cabinet Minister may be appointed. The Prime Minister may wish to set out in the Code the criteria which should be applied if the limit is to be exceeded.

Recommendation 19

The proposed Civil Service Act should contain a provision limiting the total number of special advisers that can be appointed within Government. Any increase beyond that figure should be made subject to affirmative resolution of both Houses of Parliament.

Recommendation 20

Pending the enactment of the Civil Service Act, the Government should put before both Houses of Parliament for debate a limit on the total number of special advisers that can be appointed within Government.

Recommendation 21

Any increase in the number of special advisers with executive powers should be subject to the same process of Parliamentary scrutiny as set out in recommendations R19 and R20 for the overall number of special advisers.

The Government believes that experience over the last quarter of a century has shown that special advisers have a useful role to play. It made it clear when it was elected that the rule would be a limit of two special advisers per Cabinet Minister or Minister attending Cabinet, other than the Prime Minister, except in special circumstances. The present number of special advisers conforms closely to this guideline, and the Government expects this to continue.

The Government will explain the reason for any departures from the guideline; for instance, where special advisers are brought in on the basis of their particular expertise. The Government expects appointments of experts normally to be made to permanent or temporary Civil Service posts in accordance with the rules of the Civil Service Commissioners. Where, however, an individual has outstanding skills or experience of a non-political kind which a Minister wishes to have available while in a particular post, it should be open to the Prime Minister to continue exceptionally to permit their appointment as a special adviser above the usual limit of two per Cabinet Minister. The Government would not expect there to be a large number of such appointments. It does not anticipate any increase in the limit on the number of special advisers with executive powers.

The Government accepts that the position on these appointments should be clarified on the lines set out above when the Ministerial Code is next revised.

The Government also made it clear when it was elected that it intended to strengthen the centre of Government. It has therefore expanded the Policy Unit and created a Strategic Communications Unit and a Research Information Unit in Number 10, staffed by a mixture of permanent civil servants and special advisers. It has no plans to expand these units but believes that they have been valuable developments.

The Government accepts that an overall limit on the number of special advisers should be included in Civil Service legislation. Once that legislation has been enacted, increases in the limit will require the consent of both Houses of Parliament. The Government remains committed to the introduction of such legislation (see the response to recommendation 17 above). It will review the appropriate definition and level of the limit when drawing up the legislation. In the meantime, the appointment of special advisers will continue to be regulated by Order in Council on the basis set out above.

Recommendation 22

There should be a separate code of conduct for special advisers. The special advisers code should:

> **(a) consolidate appropriate elements of the Civil Service Code, the Model Contract and paragraph 56 of the Ministerial Code, which sets out the duty to uphold the political impartiality of the Civil Service and other obligations;**
>
> **(b) include a section on the direct media contacts of special advisers, making clear the nature of the role that they play in relation to the work of Civil Service information staff and in particular the role of the departmental head of information, as set out in the *Guidance on the Work of the Government Information Service* published in July 1997; and**
>
> **(c) be enforced by permanent heads of department.**

Recommendation 23

The Government should include in the contracts of employment of all future special advisers a clause requiring the special adviser to abide by the terms of the special advisers code, and the Model Contract and the Civil Service Code should not apply to them. The Government should also ensure that existing special advisers abide by the terms of the special advisers code.

Recommendation 24

The special advisers code should be included in the proposed Civil Service Act.

Recommendation 25

Pending the enactment of the Civil Service Act, a draft of the proposed Code should be tabled in both Houses of Parliament for debate.

The Government accepts the Committees recommendation that there should be a separate Code for special advisers, and that it should include a duty on all advisers to respect the political impartiality of the Civil Service. The Code will also include a section on the direct media contacts of advisers, as recommended.

The parties to the employment contract for special advisers are the Crown and the special adviser. Special advisers are civil servants. They are subject to the same rules of conduct as other civil servants as set out in the relevant Departmental Staff Handbook, with the exception of the rules relating to political impartiality and objectivity. The appointing Minister appoints on behalf of the Crown; administration of the contract falls to the Permanent Secretary, acting on behalf of the Minister. Cases of disagreement or particular difficulty should be submitted to the Prime Minister for decision, and it should be open to the Prime Minister to terminate employment by withdrawing consent to the appointment concerned.

Introducing a Code for special advisers will not remove the requirement for a Model Contract for such advisers. There is substantial public interest in a range of issues affecting special advisers, including the extent to which they must abide by wider Civil Service requirements, the framework for their terms and conditions etc. The Government will therefore produce a revised Model Contract. Since much of the detail on propriety will now be in the Code, the new Model Contract will be a shorter document than the present one.

The substance of much of the Civil Service Code will continue to apply to special advisers. Special advisers are employed as temporary civil servants under the provisions of the Civil Service Order in Council, which itself also requires and provides the statutory basis for the Civil Service Code. Pending the introduction of Civil Service legislation, the Government will amend the Civil Service Order in Council after the next Election to give legislative backing to the current Code and will ensure that the new arrangements make clear the areas where special advisers are and are not covered by standard Civil Service terms. The Government proposes that the new Code should come into force after the next Election; all special advisers appointed or re-appointed after the next Election will, therefore, be covered by the new arrangements.

The Government will in due course welcome comments from either House and from the Select Committee on Public Administration, on the proposed Special Advisers Code.

Response to Chapter 7: Lobbying and All-Party Groups

Recommendation 26

There should be no statutory or compulsory system for the regulation of lobbyists. The current strengthening of self-regulation by lobbyists is to be welcomed.

In its First Report, the Committee concluded that a statutory or compulsory system for the regulation of lobbyists could create the danger of giving the impression that the only way to approach Members of Parliament or Ministers successfully would be by making use of registered lobbyists. The Government agrees with the Committee that this conclusion still holds true. It, too, commends the efforts of lobbyists in the area of self-regulation, and notes that this has led to greater confidence in the industry.

Recommendation 27

For *Ministers*, the basic facts about official meetings with external interests (which should include the date and time, the people involved and the general subject under discussion) should be recorded in their office diaries, which should be retained. The Ministerial Code should be supplemented accordingly.

Recommendation 28

For *civil servants including special advisers*, the current guidance on lobbying should be strengthened, to ensure that a record is kept of the basic facts (which should include the date and time, the people involved and the general subject under discussion) of any contact with external interests in which those interests attempt to influence policy and decisions.

The Governments approach, reflecting the recommendation of the First Report of the Committee on Standards in Public Life (*Standards in Public Life, Cm 2850, May 1995*), is not to ban contacts between lobbyists and Ministers and civil servants but to insist that wherever and whenever such contacts take place they are conducted in accordance with the Ministerial and Civil Service Codes, and the Seven Principles of Public Life. Ministers and civil servants receive deputations from many groups who are concerned to press their own interests or those of their clients, which Ministers and civil servants take due care to consider within the wider public interest and government policy.

In July 1998, the Government issued additional guidance to civil servants who come into contact with groups and people outside Government. The guidance makes it clear that if there is any doubt about the propriety of meetings with outside interest groups, consideration should be given to placing a note on the file setting out the reasons for the meeting. The Government agrees with the Committee that the current guidance should be strengthened to make it clear that a record should be kept of the basic facts of formal meetings with outside interest groups, and will therefore publish an updated version of the guidance in due course.

The Government has already made it clear that the key principles set out in the guidance apply to Ministers. It is not convinced that there is a need to include a reference to the recording of basic facts relating to meetings with outside interest groups in the Ministerial Code. The Government does, however, keep the Ministerial Code under review, and will revisit this suggestion when the Code is next revised.

In accepting these recommendations to maintain a record of basic facts relating to meetings with outside interest groups, the Government agrees with the Committee that it will not always be practical or proportionate to require the recording of each and every external contact as some will be informal and will be no more than an introduction in the margins of some other event.

On the issue of public access to such records, the Governments view is that it should not be the normal practice to release details of meetings with private individuals or companies. Ministers and civil servants meet many people as part of the process of policy development and analysis. Some of these discussions will take place on a confidential basis.

Recommendation 29

The Cabinet Office should issue guidance on consultation, which would have as its objective a uniformly high and transparent standard of consultation on policy issues and decisions. This might be in the form of a Consultation Code, which would seek to ensure that departments meet the principles set out in the current Cabinet Office document on Best Practice in Written Consultation.

The Government welcomes the Committees recommendation. Consultation is an important part of providing public services of a high quality. Over the past two years, the Government has therefore published best practice guides on consultation and public involvement (some of which focus on best practice in specific areas while others look at methods of consultation). On 12 April the Government put out for consultation a draft Consultation Code. Subject to the views received, the Government will be issuing the new Code in the late summer. This Code will provide a clear framework of standards and advice, should assist departments in the effectiveness of their consultation exercises and should raise the standard and profile of consultation across Government.

Recommendation 30

The Register of All-Party Parliamentary and Associate Parliamentary Groups should be placed on the internet. The question of the ease of public access to information about All-Party Groups should be kept under review by both Houses.

The Government welcomes the fact that the House of Commons has already acted to make these documents available to the public. The Select Committee on Standards and Privileges may wish to return to its 1997 report (Ninth Report from the Committee, Session 199798, *Public Access to Registers of Interests*, HC 437) and consider whether to make these available on the internet.

Response to Chapter 8: Sponsorship of Government Activities

Recommendation 31

There should be no ban on sponsorship of government activities, subject to the implementation of recommendations R32, R33, R34, R35 and R36.

This Government encourages the involvement of the private and voluntary sectors in the sponsorship of government activities wherever appropriate, and welcomes the Committees conclusion that there should be no ban on sponsorship of government activities. Many government information campaigns that are sponsored by the private sector are of importance in saving lives in the home or on the roads. Similarly, partnerships with private sector sponsors can be a valuable means of promoting, for example, British industry abroad.

Individual departments are best placed to judge what will work most effectively in relation to their work. However, the Government is conscious that this is an area where guidance was needed. Hence the decision to issue the sponsorship guidelines in July 1998.

Recommendation 32

The Cabinet Office should produce a set of principles (based on the current Cabinet Office guidelines but reflecting recommendations R33, R34, R35 and R36) to be followed by all departments that wish to attract private or voluntary sector sponsorship. Each of these departments should incorporate these principles in a more detailed practical document, appropriate to its own requirements.

Recommendation 33

The Cabinet Office sponsorship principles should include a requirement that departments must satisfy themselves, before they begin to seek sponsorship, that any sponsorship is likely to produce significant net benefit for the department, at no detriment to the public interest. Departments should in particular examine rigorously whether: (a) particular activities should be excluded from sponsorship, and (b) particular types of company could be held to be unsuitable for consideration as sponsors on the grounds of potential conflicts of interest or inappropriate association.

The existing Cabinet Office guidance makes it clear that acceptance of sponsorship should always be tested against the general principle that it should not, and should not appear to, place a Minister or department under an undue obligation. The guidance also makes clear that sponsorship should not be sought or accepted from firms that are involved in significant or commercial negotiations with the host department (whether or not linked to the event), or that may be affected by the exercise of that departments regulatory or licensing work.

The Government agrees that the current guidance could usefully be strengthened and sets out its proposals in the Annex to this response, to make it clear that departments should examine rigorously whether particular schemes should be excluded from sponsorship, and whether particular companies should be excluded from consideration as sponsors on the grounds of potential conflicts of interest or inappropriate association.

Recommendation 34

Each department which seeks sponsorship should identify an official, who would be responsible for ensuring that the relevant guidance on sponsorship is known and observed throughout that department. The official should liaise with other such officials across government departments to ensure high standards of propriety in relations with sponsors.

The Government accepts this recommendation. The Cabinet Office will ask departments to nominate a sponsorship contact with a view to establishing a network so that best practice can be shared. Once nominations are received, the names of sponsorship contacts will be circulated to departments.

Recommendation 35

There should be disclosure in departmental annual reports, and to the public on request of the details, including the value received, of sponsorship of government activities by the private and voluntary sector. For sponsorship valued at less than 5,000, the individual amounts need not be disclosed.

Recommendation 36

In recording the value of sponsorship, the figure to be recorded should be the value of the sponsorship to the government department. Guidance on the correct way to record in-kind sponsorship in such disclosures should be appended to the principles set out by the Cabinet Office.

The Government agrees with the Committee that disclosure of sponsorship would help to reassure the public that privileged access was not being granted. It accepts the recommendation that sponsorship of individual amounts valued at more than 5,000 should be disclosed in departmental Annual Reports. The Government does not believe that it would be proportionate to include this level of detail for sponsorship of less than 5,000. The sponsorship guidance at the Annex includes guidance on how to record in-kind sponsorship.

Response to Chapter 9: Public Appointments and Proportionality

Observation 1

We welcome the announcement of the Commissioner for Public Appointments, Dame Rennie Fritchie, that she intends undertaking a review of the operation of the tier system and look forward to the report of her findings and conclusions.

Observation 2

We also welcome the Commissioners indication that she is to consider whether it would be appropriate to introduce a special category of appointments, designated expert posts, to which different appointment rules should apply.

The Government welcomes the announcement of this review and looks forward to the Commissioners report.

Recommendation 37

The Secretary of State for Health should review the procedure governing reappointments to NHS bodies with a view:

> **(a) to re-introducing a system under which those seeking reappointment for the first time, who have been assessed as performing satisfactorily in their posts, can be re-appointed without being compared to an external candidate;**
>
> **(b) to ensuring that those seeking reappointment are kept fully informed about the progress of the reappointment process at all stages; and**
>
> **(c) to ensuring that the reappointment process is undertaken at the appropriate stage and a decision on reappointment is made reasonably in advance (say, two months) of the end of the post holders term of office.**
>
> (a) The Secretary of State for Health has decided to adapt the Departments current procedures so that an incumbent non-executive or chair, who has had a satisfactory appraisal for the previous year, and who has served only one term, may be considered for reappointment without further interview, advertisement or competition from other candidates.
>
> (b) The Department of Health fully accepts the need to keep those being considered for NHS appointments fully informed about the progress of their candidacy and believes that this is currently being achieved. Problems arose in previous appointments rounds following the introduction of new criteria and procedures for NHS appointments. However, in the course of the last two years candidates have been kept properly informed.
>
> (c) The Department of Health has acknowledged that there were some delays in the appointment process in 1997 and, to a lesser extent, in 1998. However, only a tiny fraction of the appointments made to trusts and health authorities in 1999 and to health authorities this year have not been made on time. For any appointment that still remains unfilled within one month of the appointment coming to an end, the Department now automatically reappoints the serving candidate for a further three months. Given that the vast majority of appointments are now made well on time, there have been very few short-term reappointments in recent rounds.

Recommendation 38

The Secretary of State for Health should reconsider, with the advice of the Public Appointments Commissioner and following the Commissioners scrutiny of the NHS appointments system (see 3 below), the appointments procedure in relation to NHS trusts and authorities with a view to setting up, if practicable, a less centralised appointments system than the present register system, subject to the need to maintain standards of performance and delivery across the NHS system.

The Secretary of State for Health will shortly be publishing a National Plan for the NHS to improve the way it works and

delivers its services. As part of that work, the Department of Health will be looking carefully at the role and responsibilities of many of the key players and stakeholders and will be taking the opportunity to review the best way to equip NHS boards with the people they need. The outcome of this work will therefore be a determining factor with regard to future procedures for NHS appointments.

Observation 3

We support the announcement of the Commissioner for Public Appointments that she intends undertaking a scrutiny of the appointment procedure used for NHS appointments and look forward to the report of her findings.

The Commissioner for Public Appointments published her report (Public Appointments to NHS Trusts and Health Authorities) on 22 March 2000. The Parliamentary Under Secretary of State for Health wrote to Dame Rennie on 7 July, setting out the Governments initial response to the Commissioners recommendation. As that letter explains, the Department of Health is proposing some major changes to the arrangements for appointments, and wishes to work with the Commissioner in developing the details of the new procedures.

Observation 4

We welcome the work of the Commissioner for Public Appointments on developing measures to improve the balance of representation on the boards of public bodies and look forward to the report of her conclusions. As part of the objectives of her work, we invite her to consider:

> **how to improve the range of candidates from which public appointees are drawn; and**
>
> **how the concept of merit can be reconciled with the need for a balanced and appropriately qualified representation.**

The Government is committed to improving the diversity of those who are successful in gaining public appointments. It constantly seeks new and additional methods of achieving its targets in this area. The Government welcomes the Commissioners decision to consider the challenge of reconciling merit with balanced representation. It will welcome any advice that she can give on improving the range and diversity of candidates and will continue to work closely with her to achieve its aims in this important area.

The Government has made significant progress with the representation of members of ethnic minorities. In 1999, 4.7 per cent of public appointments were held by members of the ethnic minorities, compared with 3.7 per cent in 1998 and 2 per cent in 1992. Steady progress has also been made with the representation of women. In 1999, 33 per cent of public appointments were held by women, an increase of 1 per cent compared with 1998 and a rise of 10 per cent on the position in 1991. Departments are also taking practical action to support disabled applicants and are currently monitoring the representation of disabled appointees with a view to setting clearer objectives next year.

Response to Chapter 10: Task Forces

Recommendation 39

An agreed definition of a task force should be established by the Cabinet Office, key elements of which should be that such a body has significant and plural outside membership and operates within a time frame of not more than two years.

This Government is committed to consulting widely on the development of policy. Task forces are normally set up very quickly with a specific remit and deadline. Individuals are invited to sit on task forces on the basis of the knowledge, experience and expertise they are able to bring. If a task force has a longer term remit such as the Better Regulation Task Force it is given the status of a non-departmental public body (NDPB). At the end of April there were 19 task forces in existence excluding those classified as NDPBs. This is not a large number. However, the Government recognises that an agreed definition of a task force would be helpful. It agrees with the Committee that the key criteria defining a task force are: membership drawn from the wider public sector and/or voluntary organisations and/or the private sector; a lifetime normally of less than two years; and a remit that is focused on a single issue.

Recommendation 40

Using the agreed definition, a review should be conducted by the Cabinet Office to establish the number of task forces in existence and their current status and longevity.

Recommendation 41

If it emerges that some task forces have been in existence for longer than two years, a decision should be made by the Cabinet Office, in conjunction with the commissioning department, as to whether the task force should be disbanded or be reclassified as an advisory NDPB.

The Government accepts these recommendations. Using the definition above, the Cabinet Office is undertaking a review of those task forces that have been in existence for longer than two years to ascertain whether advisory NDPB status would be appropriate. If not, the Government will consider with departments the need for the continued existence of these bodies.

Annex: Guidance to Departments on Sponsorship of Government Activities

Sponsorship and its role in support of government activities

Sponsorship is a major national industry with an annual turnover in the region of 640 million.[1]

Companies get involved in sponsorship for a variety of reasons, but essentially for sound business principles. As with any business relationship, sponsorship requires that the sponsoring company receives a benefit that is relevant to its own business and communication aims. Sponsorship can therefore be defined as:

The payment of a fee or payment in kind by a company in return for the rights to a public association with an activity, item, person or property for mutual commercial benefit.

The aim of these guidelines is to offer advice on best practice for those in government departments involved in seeking sponsorship for their information campaigns and other activities. These guidelines will help to ensure that all government departments take a consistent approach. They also take into account the recommendations of the Committee on Standards in Public Life in its Sixth Report relating to sponsorship of government activities and projects.

Government deals with highly sensitive and emotive issues. The level of sponsor involvement needs, therefore, to be treated with caution. The key role sponsors can play in the public sector is to assist in extending the message. They should not receive ownership rights and their support must always be seen as secondary to the aims of the Government. Sponsors should operate within clearly defined parameters, and observe issues of propriety at all time.

The outline parameters for sponsor involvement in the public sector are:

> **Companies support should be seen as adding significant benefit to an existing government message or campaign.**
>
> **There should be no overt commercial advantage to the sponsor in terms of the direct sale of products or brands as a result of their association with the Government.**
>
> **The project should not be entirely dependent on sponsorship support for its funding.**

Sponsorship principles

1. Sponsorship support should be considered only where it would be likely to produce significant net benefit for the department at no detriment to the public interest.

2. Sponsorship support should add to, not replace, core funding.

3. Sponsorship should be sought in an open and even-handed manner from businesses competing in a particular field. A chosen sponsors competitors should not be given grounds to complain that they were not given a fair chance.

4. Sponsorship should be of activities or events, not of individual Ministers or civil servants, lest those individuals appear to be placed under an obligation to the sponsor. There must be no suggestion that sponsors are being given privileged access to Ministers in return for cash/benefits in kind.

5. In general, acceptance of sponsorship should be tested against the general principle that it does not, and does not appear to, place a Minister or department under an obligation to any sponsor that goes beyond any agreements relating to the activity or event. Particular care needs to be taken when considering large amounts of individual sponsorship or repeat sponsorship.

6. The department must act with, and must demonstrate, impartiality, honesty and integrity when entering into a sponsorship agreement.

7. Ministers and departments must put procedures in place to ensure that sponsors do not receive returns that are greater than is proper and proportionate and that any sponsorship agreement is able to withstand public scrutiny. The department will set out what benefit is reasonable for the sponsors to expect.

8. Sponsorship should not dilute the departments campaign or message.

9. The department must not, and must not appear to, endorse the sponsoring company or its products.

10. Sponsors must not use a government departments communications campaign or event as a direct sales channel for their products or services.

11. Sponsors should not have any input into, or expect to influence the messages of, government communication towards their business area.

12. Departments should examine rigorously whether:

particular activities should be excluded from sponsorship; and

particular types of company should be considered unsuitable as sponsors on the grounds of potential conflicts of interest or inappropriateness.

The department should examine sponsors for their financial viability, appropriate business practices, policies and customer and media profiles.

13. The department should determine whether the sponsor could bring adverse publicity to the campaign or the department.

14. Departments should not seek or accept sponsorship from firms that are involved in significant commercial negotiations with the department (whether or not these negotiations are linked to the event or activity needing sponsorship), or from firms whose business may be affected by the departments own role in making or enforcing legislation.

15. Offers of free travel as part of a sponsorship package for a one-off event are acceptable, provided that suitable alternative carriers have also been offered the chance to sponsor the event. Offers of free travel not connected with the event should not normally be accepted. Any association with a sponsoring company must not compromise the departments responsibilities to the public.

16. Each department that seeks sponsorship should select one of its officials to be responsible for making sure that the guidance on sponsorship is known and is in use throughout the department.

17. Sponsorship of individual amounts of more than 5,000 must be disclosed in departmental Annual Reports. Guidance on handling the recording of in-kind sponsorship is set out below. Individual amounts of less than 5,000 need not be disclosed.

18. In-kind sponsorship is the provision of goods or services to support or enhance a campaign or other activity. To measure the value of in-kind sponsorship, departments should consider the opportunity cost, that is, how much it would have cost the department if it had paid for the support provided.

19. All sponsorship agreements should be in writing.

Contact points on sponsorship:

General propriety
Central Secretariat, Cabinet Office
020 7276 2470

Detailed guidance on securing sponsorship
COI Communications, Sponsorship and PR Unit
020 7261 8388

Cabinet Office
July 2000

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1. Mintel Report 1998