

CHECK AGAINST DELIVERY

Sir Christopher Kelly's speech given at Brasenose College Oxford 23 May 2011

LESSONS FROM GOVERNMENT: ETHICAL BEHAVIOUR IN POLITICS

As a result of the different jobs I have done over the last 40 years I have had the privilege of being an observer of Government, and of politicians, at a close hand, over a long time period and from a number of different perspectives.

But I imagine that it is in my current role as Chairman of the Committee on Standards in Public Life that I have been invited to talk to you today. I intend to begin by saying a bit about the Committee for the benefit of those of you who are not familiar with it. I will then spend most of my time attempting to draw out some of the lessons that experience has taught me about the influences on standards of ethical behaviour in public life. Inevitably I will draw many of my examples from the Committee's recent and current inquiries.

The Committee

The Committee on Standards in Public Life was set up in 1994. It followed a scandal in which a number of Members of Parliament were found to be accepting cash payments from interested parties in return for asking Parliamentary questions.

Its name makes it sound as if it is part of some Stalinist regime whose function is exactly the opposite of what it purports to be. In practice it is a fairly typical part of the famously unwritten British constitution – typical in the sense that we have very little formal status. We have no existence in statute. We have no powers to call for people or papers. We have no formal mechanisms to enforce any of our recommendations.

What we are is an independent advisory committee of 10 part-time members appointed by the Prime Minister to provide public policy advice to him (and occasionally others) on issues of standards and propriety in public life. We do this by carrying out evidence-based inquiries. We could, if the Prime Minister wished, be abolished at a stroke, without the need for any prior Parliamentary or other process.

This description may make us sound powerless. We are not. The Committee has in practice had a remarkably good record of getting its recommendations accepted. In 17 years the current Committee and its predecessors have issued 12 reports covering the regulation of political finance, standards of behaviour

in local authorities, codes of practice for ministers and special advisers, standards of conduct in the House of Commons and a variety of other issues. As a direct result of these reports the standards regime across local and central government now looks very different than in 1994.

Since I became Chair in 2008 the Committee has produced a report on MPs' expenses and an interim report on some of the governance issues which arise from the change towards cabinet systems in local government and the creation of elected mayors. We are currently conducting an inquiry into the funding of political parties - a highly controversial and difficult issue on which I intend to say a little before I finish.

The main lever we possess to get our recommendations accepted is moral authority. I hasten to add that this is nothing to do with us as individuals. It stems from the past record of the Committee and the quality of the work it has done. To retain authority we need to continue always to conduct our inquiries in a way which is above reproach – manifestly independent, based on evidence and not prejudice, open and transparent, giving everyone who wants the chance the ability to contribute and avoiding political gamesmanship. It also requires resisting the obvious temptation of responding to media requests to comment on each and every instance of poor behaviour by anyone in public life. The Committee's authority is more forceful if it is not frittered away.

Our remit is a wide one. To look at the standards of conduct of holders of public office and to recommend changes so as to "*ensure the highest standards of propriety in public life*".

At the time this remit was set it was with the goal of improving confidence and trust in public services. In practice higher standards and greater trust have not moved in tandem. I am pretty confident that the activities of the Committee have raised standards. But public trust has moved in the opposite direction – and was given further impetus by MPs' expenses.

The decline in public trust has been such that in successive surveys of public opinion Members of Parliament as a class tend to be rated down at the bottom with red top journalists and estate agents. That ought to be a matter of some concern.

An optimist might say it has always been thus. Ben Page of IPSOS Mori has a favourite piece of survey evidence demonstrating that even at the height of the second World War in 1944, when the country was supposed to be pulling together, public trust in the then Government under Winston Churchill was remarkably low. 35 per cent of the population thought that politicians at the

time were primarily motivated by self interest. 22 per cent thought they were motivated by the interests of their party. Only 36 per cent thought they put the country's interest first.

It can also be claimed that low levels of trust also reflect a welcome collapse of deference and a healthy degree of scepticism about those in authority over us. Such attitudes appear to be deeply ingrained in the British personality.

But when scepticism tips into cynicism and – as frequently follows – public disengagement dangerous things can happen.

High standards of behaviour in public office holders, and public confidence that those standards are generally being observed, are not optional. They are an essential part of a healthy democracy. As is only too painfully apparent at the present time, public office holders have to take a lot of difficult decisions. We know that people are more likely to accept decisions which affect them adversely when they have confidence in the way those decisions were taken. There are numerous examples of what happens when decisions are not regarded as legitimate.

Politicians and other public office holders need to be able to show not just that they are taking the right decisions, for the right reasons, but that they have robust and transparent processes for reaching them.

That they are not influenced by any considerations of personal gain.

And that there is sufficient accountability for their decisions, and sufficient effective and informed scrutiny of them, that the rest of us can have confidence that these conditions are met.

That is how trust is built and retained.

The seven principles of public life

The very first report of the Committee set out what were described as the seven principles of public life. The then Committee believed that these principles should characterise the behaviour of every holder of public office. They are **selflessness, integrity, objectivity, accountability, openness, honesty and leadership**.

These principles have become the bedrock of our country's public service ethos – as they ought to be of any well functioning democracy. Countries whose public services are not characterised by honesty, integrity and so on tend for that reason to be more unpleasant places in which to live.

The majority of public office holders and public servants in the UK almost certainly could not recite them by heart. But they will know that they ought to abide by them in a general sense.

You may be thinking that the principles are so obvious that they become almost banal. But they should and cannot be taken for granted. I was interested to discover recently from a discussion with the European Ombudsman that one of the difficulties with an attempt he is currently making to introduce a similar set of principles into European administration is that some of them simply do not translate into other languages. I am told for example that – revealingly -there is no word for accountability in French.

The principles have two characteristics that are worth noting.

They apply not just to individuals but also to the behaviour of organisations.

And strong ethical values are not just about morality. These days organisations that want to achieve sustainable, enduring success need to focus on how they do things as well as what they do.

Seven lessons

Of course, promulgating principles and successfully embedding them in organisational culture are two very different things. Since this seminar series is entitled lessons from Government I want to suggest seven lessons for your consideration.

The first is this. **In thinking about integrity we should never forget that politicians are people too.**

Of course in a number of respects politicians **are** different. They have chosen a life in politics – a life usually involving long apprenticeship, uncertain returns and poor financial rewards relative to many other professions. Politician's careers, it is said, almost always end in failure. If they get their timing wrong they can spend long periods on the back benches and then lose their seats for reasons that may have little to do with their own levels of performance. Increasingly they have to set themselves on the career path from a very early stage. There are relatively few current MPs who have successfully pursued careers outside politics for any length of time before entering the House. There is still the occasional doctor, at least one practicing dentist and of course a significant number of lawyers. But a large number have had little experience of work outside politics.

Despite these differences, Members of Parliament are still subject to the same determinants of behaviour as anyone else. We tend rather hypocritically to speak as if public office holders have a responsibility to behave better than the rest of us, in their personal as well as in their public lives. In reality, of course, they share the same strengths and weaknesses as the rest of the human race. Like the rest of us they respond to incentives. Like the rest of us they are sensitive to peer pressure. Like the rest of us they are influenced by the culture in which they operate. Like the rest of us they tend to over estimate their own integrity.

We should not judge the behaviour of politicians by standards which we are not prepared to apply to our own behaviour. But nor in creating regulatory frameworks should we forget that they are likely to possess all the usual human frailties.

The second lesson is that **we should not be surprised when people respond to incentives.**

What happened with MPs' expenses is a classic example.

The basic salary of an MP of around £65,000 is a multiple of the average wage. It also compares reasonably well with most of their comparators in other European legislatures.

But it is a lot less than most of them might be earning in alternative occupations. Some of them claim that when divided by the hours they work it amounts to an hourly rate of less than the minimum wage.

Time after time Prime Ministers have ducked the question of raising MPs' pay significantly because it is always going to be politically difficult to do so.

The consequence is that many MPs regard themselves as being chronically underpaid, though few would say so publicly. Partly for that reason, many came to regard expenses as being **entitlements**, not something which needed to be justified in each case as being 'wholly, necessarily and exclusively' incurred in the performance of their duties. They appear to have been encouraged in this belief by successive party leaders, explicitly or implicitly.

The amounts involved were not trivial. It was possible, for example, to claim up to £24,000 or so for additional housing costs as a result of having two places of work – in Westminster and in the constituency – tax free. Crucially the salaries of MPs were a matter of public record. Expenses claimed were not.

The effect, as we now, know was toxic.

Not surprisingly what many MPs did was simply to bundle up receipts for household expenses which coincidentally added up to just below the maximum claim, or just claimed the maximum. Some made no real attempt to consider whether the claims related to money they had spent in pursuit of their duties in Parliament. So money was paid in relation to some surprising things, including the infamous duck house and the cleaning of someone's moat.

Of course, when these practices were exposed to the light of day there was a horrified reaction. But I do not for one moment believe that it shows that the majority of MPs were wholly venal. There were a handful of cases of outright fraud. Some cases are still going through the courts. But most were simply acting according to what they probably believed to be established norms of acceptable behaviour; and they were lulled into a sense of false security by the absence of any effective scrutiny and the fact that everyone else was doing it too. Many of those affected now feel a great sense of unfairness about it all to add to their grievance about their pay. Their frustrations are made worse by the fact that they are unable to express that belief publicly for fear of the reaction.

The third lesson is that **transparency is absolutely essential for the maintenance of standards.**

A major contributing factor to the abuse that flourished in the House of Commons expenses system - and incidentally in the Lords as well - was that it was not transparent.

Some in the House of Commons fought hard to keep it that way, not least by attempting to claim that for reasons of Parliamentary privilege they should not themselves be subject to the requirements of the Freedom of Information Act – requirements that they had legislated to impose on everyone else.

Parliamentary privilege is an important doctrine designed to ensure freedom of speech in Parliament. It is frankly outrageous that some thought to use it to hide what was happening with expenses.

I firmly believe that the arrival of complete transparency of expenses has been as important to the reform of the system as any of the detailed changes which my Committee recommended. Many of the expenses claims that were made would simply not have happened had those concerned known that they would be made publicly available and likely to be publicly scrutinised.

It goes without saying that transparency is two-edged. Greater openness has undoubtedly raised standards of behaviour in public life. But it has also

probably contributed to the decline in public confidence. The public has become aware of things which had previously been hidden from view.

The role of the media has been critical in many instances in bringing abuse to light. The exposure of the full extent of the expenses scandal owes a lot, for example, to the determination of a freelance journalist. But some elements of the press also have a habit of presenting information in ways which imply wrongdoing by innuendo when a closer examination of the facts would simply not support it.

I hasten to say that I do not regard the fact that information will be misused as a reason for suppressing it. But I do think that the media has a responsibility for using it fairly. Not all of them respect that responsibility as they should.

The fourth lesson is that whatever words are used to cloak it **politics is in essence a competition for power and resources.**

We wring our hands about some of the less savoury aspects of political behaviour – mudslinging and personal attacks in particular. Many people have commented for example on the extent to which the referendum campaign was characterised more by scaremongering and reflections on Nick Clegg than on the issues. Such behaviour undoubtedly contributes to the low esteem in which politicians are held in many quarters.

But the reality is that it can be quite rational. Often it is the most effective way of winning a particular point. It is no use having the best possible policy ideas, and the most honourable intentions, if you are never able to implement them because you cannot secure office, or hold on to it. When politicians behave badly it is often as much our fault as theirs. Whatever we say in principle, in practice the electorate often responds to political gamesmanship by rewarding it.

Fifth, standards are seldom absolute and set in stone. **Expectations of acceptable behaviour change over time.** Regulatory mechanisms need to adjust accordingly.

To give one example, the Committee's report which promulgated the seven principles thought of one of them – honesty – largely in terms of avoidance of conflict of interest. These days honesty in everyday parlance has a much wider meaning. We expect office holders to be truthful and not to mislead us. An expectation that is frequently put under some strain.

A number of the other principles need also now to be interpreted in a way which is much more dynamic and proactive than was conceived in 1994.

Accountability, for example, is even now too often thought of as a rather process driven obligation involving dense annual reports read by few and annual meetings attended by even fewer. Such processes can be a chore for those involved and consume scarce resources which would be much better devoted to other uses.

What is required instead is a much more intelligent and purposeful approach which engages people in ways which have meanings to them and generate a real sense of engagement and understanding between those who are taking decisions and those who are affected by them. This is much more difficult to bring off, but much more rewarding and productive when it is done successfully.

Sixth and penultimately we know **that cultures, particularly well established cultures with their own legitimacy myths are very difficult to change.**

When Tony Blair complained of the scars on his back over public sector reform it was not because people were simply being obtuse. It is because bringing about meaningful changes in behaviour is generally both difficult and time consuming in any organisation, whatever sector it is in. You do not bring about change simply by announcing it. Nine tenths of any change programme comes after all the decisions are taken. It requires a lot of hard work over a sustained period of time.

Above all it requires leadership. Leadership as a concept is rather different in kind from the rest of the seven principles. But it is one of the most important. Unless holders of public office promote appropriate values by leadership and example they will not be embedded in the culture and behaviour of their organisations. The tragedy of MPs' expenses is a prime example of what can go wrong when people who ought to have been showing leadership failed to do so.

It is also true that if you really want better leadership and innovation in public organisations then those leading them have to be given room to lead and political backing when they do so. Denigration of public service managers, and their rates of pay, might play well to a particular political constituency. But it is not self-evidently a sensible strategy if you are serious about bringing about major change.

The final lesson is this. **Opponents of accountability and good governance call it bureaucracy.**

The risk is that by overreacting to examples of poor behaviour we will give such people ammunition.

So it is an essential feature of any arrangements for promoting high standards of behaviour that they should be intelligent in their application and proportionate in the burden they impose.

In the past that has not always been the case. A major example is the standards regime for local authorities first put into place following a report by the Committee in 1997. In implementing that report the Government of the time went much further than the Committee had recommended. The result was a regime that was disproportionate in its effects, and thereby fuelled a dissatisfaction that has given the current Government the opportunity to propose largely to abolish it. Those attempting to retain essential features as the necessary legislation goes through Parliament are on the back foot because of the earlier excess.

It will be the Committee's task when we eventually report on party funding not to fall into the same trap. We will have to make sure that any recommendations we make are both realistic and proportionate to the ill for which a remedy needs to be sought.

The current legislation governing the funding of political parties largely dates from a report by my Committee in 1998. One of the changes introduced then was to make donations from companies subject to specific approval from shareholders. The result was to impose a serious inhibition on what had previously been a rich source of funds, for the Conservative party in particular. Such donations were widely believed to help smooth the route into the House of Lords for chairmen or chief executives of FTSE companies, though any connection between peerages and donations would be strenuously denied.

But parties still need funds to survive. So since the introduction of the Political Parties, Elections and Referendums Act in 2000 they have generally come to rely more on significant donations from wealthy individuals. Unlike some other countries there is no limit on the amount which any individual can contribute to a political party. That creates an obvious risk that favours might be sought or offered, or perceived to be sought or offered, in return for particularly significant donations. A measure introduced to combat one perceived potential source of corruption might have had the effect of greatly encouraging another.

The belief has been that the best safeguard against such a possibility is complete transparency. Accordingly, all donations above a very low limit have

to be made public. It has been part of the Committee's task to assess whether that has been sufficient.

We have been provided with very little concrete evidence that there has been any corruption since the regime was reformed.

But the truth is that if there were any connection between donations given and favours returned those concerned would have to have gone about it in a very clumsy way to leave any evidence behind.

Moreover whether or not there has been any corruption in practice the arrangements are certainly corruptible. It is not surprising that there is widespread distrust of the arrangements among the general public.

The Committee is currently wrestling with a real dilemma. The corruptibility of the current arrangements is clearly highly undesirable. The election manifestos of the three main parties, and the coalition agreement all pledged to do something about it. We are told that the effective way of dealing with it is to put a cap on the size of the donation that any individual donor can make. But the implications of that for the finances of the individual parties would be very grim indeed.

The Committee will not shrink from making robust recommendations when it produces its report and recommendations later this year. But before we do so we need to be absolutely certain that the proposed remedy is not worse than the purported disease.

We are witnessing struggles by people across the globe to live in democratic societies. My belief is that the work of my Committee supports our own democracy by helping public servants to be clear about the behaviour expected of them, and citizens to be clear about that too.

I hope my words have been of some interest. I would be delighted to try to answer any questions.