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Public Administration and Constitutional Affairs Committee

Propriety of Governance in Light of Greensill

Fourth Report of Session 2022–23

Report, together with formal minutes relating to the report

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Public Administration and Constitutional Affairs Committee

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Contents

Summary 3

1 Introduction 5

2 Regulating the 'Revolving Door' 8

The Business Appointment Rules 8

Application of the Rules by Departments 10

Enforcement 12

Scope 14

3 Appointments 17

The Commissioner for Public Appointments 17

The Role of Ministers in Public Appointments 19

Balance 20

Proposed Changes to the Appointment Process 21

Panels 22

Select Committee oversight 23

Unregulated Appointments 24

4 The Ministerial Code 27

The Independent Adviser on Ministers' Interests 27

Appointment 29

The Initiation of Inquiries 31

Sanctions 32

The Ministerial Code as applied to the Prime Minister 33

5 Conclusion 35

An ethics regulator? 35

Values 36

Conclusions and recommendations 38

Formal minutes 43

Witnesses 44

Published written evidence 45

List of Reports from the Committee during the current Parliament 46

Summary

The Committee undertook this inquiry in the wake of the collapse of financial services firm Greensill Capital and revelations about its closeness to Government and its lobbying activities. The Committee set out its initial findings in an interim report in July 2021. In the light of these initial findings, in this report, we consider in more detail the propriety of governance in the areas of public life impacted by the Greensill affair and the role of the ethics watchdogs charged with oversight of standards in public life.

The involvement of individuals who had been at the top of Government with Greensill Capital drew attention to the way in which the employment of former Ministers and senior Officials is regulated, especially as no significant breaches were found to have occurred in these instances. This so-called 'revolving door' from the public to the private sector is regulated by the Business Appointment Rules ("the Rules") which are overseen by the Advisory Committee on the Business Appointments ("ACOBA"). Whilst most comply with the Rules and the advice and the decisions of ACOBA, failure to do so currently attracts only negative publicity at worst. A regulatory regime which holds no possibility of sanction for those that do not comply with it is clearly flawed. Consequently, the Committee argues that the Business Appointment Rules must be enforceable, legally if necessary. ACOBA must also be placed on a statutory basis.

The discovery that Greensill Capital's founder Lex Greensill had spent time working in Government raised questions about the way in which public appointments are regulated. The Commissioner for Public Appointments oversees the appointment to certain positions in public life. But many do not fall within the Commissioner's remit, and a whole class of "direct Ministerial appointments" appear to have been made entirely at Ministers' discretion, without being subject to any proper process or consideration of merit, and seem to operate outside any existing Code of Conduct. The need for Ministers to be able to make appointments was stressed to us. Such appointments may be key to delivering Government policy and Ministers are ultimately accountable for them, yet this Ministerial discretion is balanced by minimum requirements of merit and independent oversight of due process. To ensure this balance is maintained, the Commissioner for Public Appointments should become a statutory post. For those ethics watchdog appointments, the endorsement of the relevant Select Committee should be required. For direct appointments made by Ministers outside the Commissioner's remit, a letter of engagement, including statement of the terms of their appointment, their remit, their management, and tenure should be shared with the Chair of the relevant Select Committee.

During the course of the inquiry, several other issues emerged that further challenged the current means by which standards and ethics in public life are upheld. These included:

- Accusations of bullying by the former Home Secretary, Rt. Hon. Priti Patel MP, that led to the resignation of the former Permanent Secretary to Home Office, Sir Philip Rutnam, and the resignation of the then Independent Adviser on Ministers' Interests, Sir Alex Allan, when the then Prime Minister rejected his findings that bullying had indeed taken place and had constituted a breach of the Ministerial Code.

- Questions over the funding of the refurbishment of the Prime Ministerial accommodation in Downing Street. This include the failure to supply the then Independent Adviser on Ministers' Interests, Lord Geidt, who was investigating the matter, with the contents of an exchange of text messages between the then Prime Minister, Rt. Hon. Boris Johnson MP, and a Conservative Party donor, Lord Brownlow, that were directly relevant to the investigation.

- A series of parties that were held in Downing Street in breach of the COVID-19 lockdown regulations at the time. The resulting investigation noted significant failures of organisation and culture in the then Prime Minister's Office.

- A second resignation of an Independent Adviser on Ministers' Interests, Lord Geidt, when he was asked to provide cover for a decision to breach international law.

Consequently, the report also covers the Ministerial Code and the role of the Independent Adviser on Ministers' Interests. Given the importance of the role in maintaining public confidence in the propriety of governance, and recent equivocation over whether an appointment will be made at all, the report argues that it should become a statutory position and the appointment subject to oversight by the Commissioner for Public Appointments. The statutory role should preserve the recent increase in powers for the Independent Adviser, notably the authority of the post holder to initiate their own investigations rather than waiting for instruction from the Prime Minister. Any decisions about appropriate action following an investigation must, however, remain the Prime Minister's. This creates a tension regarding the outcome of any investigation into the Prime Minister themself. We found no easy resolution to this and conclude that the Prime Minister must ultimately decide on the appropriate action should they themselves be found in breach of the Ministerial Code.

In calling for a more robust regime for regulating ethical conduct in public life, we fall short of calling for greater external regulation in the form of a statutory ethics commission or commissioner. Such are the differences between the various watchdog bodies and their roles that we do not consider it appropriate to merge them into a single entity.

In calling for more statutory oversight of propriety of governance, we would not want to undermine the continued importance of self-restraint on the part of those in public life. Individuals in public life must recognise the importance of personal restraint and responsibility and act to regulate their own behaviour accordingly.

1 Introduction

1. This inquiry was prompted by the collapse of the financial services firm Greensill Capital, which had run the Government's Pharmaceutical Early Payment Scheme ("PEPS"), providing advances to local pharmacies on payments due for issuing prescriptions. It was also an approved issuer of Government-underwritten loans to businesses under the COVID-19 pandemic response. The NHS was also a participating employer in Earnd, a Greensill Capital subsidiary issuing salary advances.

2. Greensill Capital's collapse was accompanied by revelations about the closeness of the company, and some who worked for it, to Government. Company founder Lex Greensill was a consultant in the Cabinet Office where he was closely involved in the development of the PEPS scheme that his company was to go on to win the contract to deliver. It was also reported that the Government's former Chief Commercial Officer Bill Crothers had, for a time, been working for Greensill Capital part-time whilst still a serving civil servant. He later went on to join the company full time. Moreover, it was revealed that former Prime Minister Rt. Hon. David Cameron, who was employed as an adviser to Greensill Capital's board, used contacts made during his time in office to lobby Ministers and Officials in HM Treasury on the company's behalf.

3. In light of these concerns, we launched our inquiry on 19 April 2021. In the first phase of the inquiry, we tried as best we could to establish the facts of the case and we set out our initial findings in an interim report.[1] Our finding that few of the existing rules regulating ethical conduct in Government had actually been breached raised questions about their robustness.

4. The issues surrounding Greensill Capital's collapse unsurprisingly generated considerable interest. Our inquiry was paralleled by the Government's own inquiry, conducted by Nigel Boardman, a prominent lawyer who had previously conducted a review of COVID-19-related procurement for the Government.[2] His inquiry resulted in two reports, the first published in July 2021 reporting in detail on what had taken place, and the second, published in August 2021, making a series of recommendations.[3] The Treasury Select Committee inquired into the efficacy of the financial regulation regime in light of Greensill's collapse as well as the conduct of Ministers and Officials in HM Treasury in response to Greensill Capital's lobbying.[4] The Public Accounts Committee inquired into the accreditation of the company as an approved lender under the COVID-19 support schemes for business.[5] In addition, the Committee on Standards in Public Life ("CSPL") published its "landscape review" of standards in public life which drew on the events surrounding Greensill Capital's collapse.[6] The focus and scope of this work has differed from our inquiry, though we have considered them where relevant.

1 PACAC Propriety of Governance in Light of Greensill: An Interim Report 3rd Report of Session 2021–22 HC 59
2 Cabinet Office Findings of the Boardman review into pandemic procurement 8 May 2020
3 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 1: Report of the Facts 21 July 2021; Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2: Recommendations and Suggestions 5 August 2021
4 Treasury Committee Lessons from Greensill Capital 6th Report of Session 2021–22 HC 151
5 PAC Lessons from Greensill Capital: accreditation to business support schemes 26th Report of Session 2021–22 HC 169
6 CSPL Upholding Standards in Public Life November 2021

5. In this inquiry, we have focused on those areas of public life in which Greensill Capital's collapse and the events surrounding it have directly given rise to system-level concerns on the regulation of standards. The rules governing the employment of former Ministers and Officials after they leave office are regulated by the Business Appointment Rules, which are overseen by the Advisory Committee on Business Appointments (ACOBA). The fact that senior figures at Greensill Capital had previously been involved in Government naturally raised questions about how well regulated their moves into the private sector had been. It also emerged that Lex Greensill's status during his time in Government was hard to discern; it eventually emerged that he had been employed as an unpaid consultant, however, he appears to have enjoyed an autonomy and contractual status that would not ordinarily be expected of such a consultant.[7] This raised questions about who is appointed, and how, and whether the scope and powers of the Commissioner for Public Appointments, who regulates the public appointments process, are adequate.

6. Given the revelations about Greensill Capital's lobbying activities, we initially intended to include the regulation of lobbying in the United Kingdom in the inquiry. However, after the launch of our inquiry, the Government asked us to undertake post-legislative scrutiny of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014. Consequently, we have launched a dedicated inquiry to consider that legislation and lobbying issues more generally.[8] We will be reporting on this matter in due course.[9]

7. Moreover, the events surrounding Greensill Capital and its collapse took place amidst a series of events that called into question the effectiveness of ethics regulation in relation to Ministers. These included:

- Questions over the funding of the redecoration of the then Prime Minister's Downing Street residence by a Conservative Party donor. It later emerged that the Independent Adviser had not been given the contents of an exchange of messages between the then Prime Minister and the donor relevant to his investigation;[10]

- The resignation of the Permanent Secretary to the Home Office amidst accusations of bullying by the then Home Secretary. This resulted in the resignation of the Independent Adviser on Ministers' Interests when the Prime Minister rejected his finding that the bullying had taken place;[11]

- Criminal breaches of lockdown regulations in Downing Street, which became known as "Partygate". The resulting internal investigation into events by Senior Civil Servant Sue Gray was highly critical of the organisation and culture of the Prime Minister's Office;[12] and

7 PACAC Propriety of Governance in Light of Greensill: An Interim Report 3rd Report of Session 2021–22 HC 59, paras 29–30
8 HC Deb 14 April 2021, c331
9 PACAC Lobbying and Influence: post-legislative scrutiny of the Lobbying Act 2014 and related matters
10 Independent Adviser on Ministers' Interests to Prime Minister 17 December 2021
11 "'Bullying' report chief Alex Allan quits after PM backs Priti Patel" Times 20 November 2020
12 Cabinet Office Findings of Second Permanent Secretary's investigation in alleged gatherings on Government premises during Covid restrictions 15 May 2022

- A second resignation of an Independent Adviser on Ministers' Interests, following the resignation of Sir Alex Allan in November 2020, this time over the legality of Ministerial actions relating to international trade policy on steel tariffs.[13]

8. The CSPL observed that there is no objective way to measure standards in public life.[14] Nonetheless, the cumulative effect has been that questions about the conduct of those in public life have rarely had a higher profile than in recent years. The Cabinet Secretary Simon Case told us that he was spending an astonishing 30% of his time on matters of propriety and ethics which former Prime Minister Rt. Hon. Sir John Major said suggests "…there is a serious problem".[15] The Cabinet Secretary noted the difficulty in his role of balancing his duty to serve the Government with the need to maintain values.[16] For these reasons, we felt it important to include in our inquiry the system by which the propriety of Ministers' conduct in office, including Prime Ministers, is regulated. Therefore, in addition to those areas of public life directly affected by the Greensill case, we have also considered the Ministerial Code and the role of the Independent Adviser on Ministers' Interests in our inquiry.

13 Lord Geidt to the Prime Minister 15 June 2022

14 CSPL Standards in Public Life: First Report of the Committee on Standards in Public Life Volume I Cm 2850–1 1995, paras 3–4

15 Q655 (Sir John Major)

16 Q408 (Simon Case)

2 Regulating the 'Revolving Door'

9. The Business Appointment Rules ("the Rules") were created to regulate the so-called 'revolving door' between the public and private sectors. They are designed to prevent conflicts of interest arising where Crown Servants subsequently take up appointments in the private sector.[17] These conflicts might include the suspicion that they influenced policy in favour of a company in return for, or expectation of, future employment; that they used contacts gained in Government to influence policy in favour of their new employer; or that they might use privileged information gained in Government to benefit their new employer.[18] The Advisory Committee on Business Appointments ("ACOBA") was established in 1975 to apply the Rules.

10. Initially, the Rules applied to public servants and not to Ministers. But, following a recommendation in the CSPL's 1995 report, *Standards in Public Life*, the Rules were extended to include Ministers and their Special Advisors:

> Very high standards of conduct are rightly expected from Ministers and civil servants….There has been much concern over Ministers who, on leaving office take positions in companies with which they have had official dealings. For two years after leaving office senior civil servants have to seek clearance from an independent advisory committee before joining private companies. The same need to protect the public interest arises with Ministers and special advisers, who should be subject to a similar clearance system.[19]

11. There have been periodic updates since then but, as the CSPL notes, the essentials of the system remained mostly unchanged. The Government publishes the Rules and is responsible for their content, and ACOBA is responsible for their application.

The Business Appointment Rules

12. Under the Rules, former Ministers and those leaving the Senior Civil Service (SCS) grades or their equivalents (including Special Advisers ('SpAds')) must apply to ACOBA for advice before accepting any employment for two years after leaving office (one year for Officials below the SCS grades). The Rules seek to ensure that Ministers' and Officials' post-separation employment does not give rise to questions about their conduct in office or allegations that they misused privileged information gained during their time in office. Ministers and Permanent Secretaries should not take up any employment for three months after leaving office. There is a two-year ban on those subject to the Rules from lobbying Government. Former Ministers and those Officials at the two most senior grades must apply directly to ACOBA for advice before taking on any new external appointments. Below that, the Rules are administered by their former departments.

17 Crown Servant encompasses Ministers, the Civil Service, including Special Advisors and members of the Diplomatic Service, as well as members of the Armed Forces and Security Services.

18 Comptroller and Auditor General Investigation into government's management of the Business Appointment Rules HC 245 Session 2017–2019 19 July 2017, p.8

19 CSPL Standards in Public Life: First Report of the Committee on Standards in Public Life Volume I Cm 2850–1 1995, p.5

13. One of our predecessor Committees described ACOBA as a "toothless regulator".[20] Certainly, judged by the criteria by which the CSPL evaluated the independence of the ethics watchdogs, this assessment remains valid.[21] In its favour, though the Chair is a government appointment, the post is subject to the Commissioner for Public Appointment's process for Significant Appointments, including a pre-appointment appearance before this Committee.[22] The current incumbent, Lord Pickles, has been appointed to a non-renewable fixed term of five years.[23]

14. Against that, ACOBA has no legal status: it is not based in statute (unlike the Civil Service Commission, for example) nor Orders in Council (as the Commissioner for Public Appointments is). ACOBA does not "own" the Business Appointment Rules and it is the Government that is responsible for their contents and, whilst ACOBA is free to launch its own investigations into suspected breaches of the Code (unlike, for example, the Independent Adviser on Ministers' Interests), it has no power to enforce its findings or sanction those responsible for any breach; as per its title, its role is purely advisory.[24]

15. In *Standards in Public Life*, the CSPL considered whether a legally enforceable scheme should be implemented for former Ministers and SpAds. The Civil Service had been subject to post-separation restrictions for some time before that, but these had been complied with voluntarily.[25] Ultimately, the CSPL concluded that Ministers and SpAds should be subject to a similar scheme as the Civil Service, relying on voluntary compliance. It considered that the threat of negative publicity generated by non-compliance and the reputational damage that resulted from it would be sufficient to ensure that those subject to the Rules complied with ACOBA's advice, with "threat of hostile reaction and media comment" acting as a "powerful and effective disincentive to break the rules".[26]

16. The CSPL's 2021 report notes the significant change in the context in which ACOBA and the Rules operate and the resulting strain this has placed on their efficacy. The growth in the outsourcing of services has increased the exposure of government to the private sector and increased the number of officials dealing directly with it. There has also been a concerted effort by successive governments to increase the movement of people between the Civil Service and the commercial sector: external recruitment has been central to efforts to address skills shortages in key areas of the Civil Service such as digital and contracting. Together, these developments have placed a greater demand on ACOBA in terms of maintaining public confidence. The task—in the words of Cabinet Secretary Simon Case, "to stop people making direct personal financial gain from the privileged information that they have gained in government"[27]—remains the same, but the challenge of doing so has increased. It should be noted, however, that there is no evidence of widespread deliberate breaches of the Rules.[28] Nonetheless, evidence we have received in the course of

20 PACAC Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action 13th Report of Session 2016–17 HC 252, p.3
21 CSPL Upholding Standards in Public Life November 2021
22 Commissioner for Public Appointments HM Government Significant Appointments 2017
23 Cabinet Office Lord Pickles appointed as Advisory Committee on Business Appointments Chair 20 March 2020
24 In practice, its investigatory ability is constrained by its resources.
25 CSPL Standards in Public Life: First Report of the Committee on Standards in Public Life Volume I Cm 2850–1 1995, para. 28
26 PASC Business Appointment Rules 3rd Report of Session 2012–13 HC 404 [incorporating HC 1762-i-v, Session 2010–12], para. 25
27 Q507 (Simon Case)
28 Q366 (Lord Pickles). It should be noted that, as ACOBA does not routinely monitor compliance, the claim is anecdotal.

this inquiry indicates concern about how well the system has held up in the face of these demands. CSPL Chair Lord Evans summed up the problem:

> At the moment, the rules are not particularly tough. The arrangements for their oversight are not fully independent of Government. They do not have an independent statutory basis. The compliance with those rules is not enforced. You have a system that goes some way towards at least providing some moral responsibility on those leaving Government to do the right thing, but it is not enforced and not very clear, and the regulatory body, if you can call it that, does not have the teeth that it needs to make sure that its recommendations are followed through.[29]

Application of the Rules by Departments

17. ACOBA Chair Lord Pickles was one of those concerned about the application of the Rules, particularly for civil servants rather than Ministers or SpAds, and particularly at the grades that are not directly overseen by ACOBA:

> Government Departments are rubber-stamping things that are plainly wrong, so you almost have to go through a process of explaining to the Departments themselves that there is a problem and they need to address it. If we are seeing that at the very top, it makes you wonder about what is going on further below the surface.[30]

He went on to say:

> The business rules don't just apply to ACOBA; they apply to the whole of Government, and what the Government need to ensure is that there is a process by which those conflicts can be addressed, and it should be open and transparent. That seems to me to be a reasonable thing to do.[31]

Should an unscrupulous company seek to gain an unfair advantage through recruiting former Officials, he suggested they would be better served hiring more junior civil servants who had been involved in the day-to-day implementation of policy rather than the "marquee signings" such as former Permanent Secretaries whose profile and direct oversight by ACOBA would ensure a higher degree of scrutiny and, potentially, generate much more negative publicity.[32]

18. Lord Pickles noted that there is inconsistency in the rigour with which different departments apply the Rules, and that ACOBA's efforts to assist them had been rebuffed by Officials:

> The lack of procedures that exist within Departments is deeply worrying. Some Departments have a structure set up and are very good. You may remember I offered to do an audit of Departments. We offered to do training. We offered for the members of the committee to go in, which we

29 Q218 (Lord Evans)
30 Q356 (Lord Pickles)
31 Q370 (Lord Pickles)
32 Q356 (Lord Pickles)

> would have done at no cost. That was rejected by the civil service, which said it would do it itself, but it has not. It keeps talking about setting up training schemes, but it has not.[33]

Spotlight on Corruption and Transparency International also noted the inconsistent application of the Rules in the grades not subject to ACOBA's direct oversight.[34] Lord Pickles suggested that Ministers had acknowledged that more needed to be done to ensure the integrity of the system, but that the Civil Service has dragged its feet on introducing change.[35] The Head of Propriety and Ethics in the Cabinet Office, Darren Tierney, disputed that accusation.[36] Nonetheless, Nigel Boardman also noted a lack of consistent compliance across government.[37] The hasty efforts to establish the extent of senior civil servants' second jobs that followed the revelations about the former Government Chief Commercial Officer Bill Crothers' period of "double hatting" with Greensill Capital is also suggestive of a general lack of ongoing attention to compliance issues.[38]

19. Mr Boardman's recommendation to address this issue was that a Compliance Function be established to ensure better and more consistent application of the Rules across departments.[39] Reflecting on this recommendation, Mr Tierney said that discussions were ongoing about whether to establish a Compliance Function, though he raised issues with how it might work in practice. He told us that there are a range of different areas of the Civil Service that have a type of compliance function as diverse as the Permanent Secretary's responsibilities as departmental Accounting Officer, Ministers' Private Offices, and HR and finance (both of which are part of established in Functions already). It is unclear how a dedicated Compliance Function would accommodate this:

> I am a bit nervous that we don't undermine some of the quite fundamental compliance functions we have already in government by creating a new function. Rather what we could do is make sure the existing functions work better[40]

20. ***The Cabinet Secretary denied that there is a lack of resource dedicated to compliance issues in Government but admitted that there is a "brigading issue" of making them work together. We accept that Nigel Boardman's proposal for a Compliance Function might create difficulties by cutting across current compliance operations located in existing Functions. However, other means of addressing the "brigading issue" are required. We were told work has been conducted to address this. In its response to this report, the Government should include an update on this and its next steps.***

33 Q356 (Lord Pickles)

34 PGG14 (Transparency International), para.37; PGG18 (Spotlight on Corruption), para. 16

35 Q359 (Lord Pickles)

36 Q500 (Darren Tierney)

37 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 1: Report of the Facts 21 July 2021, p.8

38 Cabinet Secretary to Chair of PACAC 23 April 2021. We consider Mr Crothers' "double hatting" in our interim report. See PACAC Propriety of Governance in Light of Greensill: An Interim Report 3rd Report of Session 2021–22 HC 59, Chapter 4.

39 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2: Recommendations and Suggestions 5 August 2021, p.8 Functions in government operate 'horizontally', joining the operations in areas of government activity across departments.

40 Q455 (Darren Tierney)

Enforcement

21. The most persistent criticism of the regulation of the 'revolving door' is that there is no mechanism to enforce it. Compliance with the Rules is now referred to in the Ministerial Code, the Civil Service Management Code, and the Diplomatic Code.[41] The Rules are also appended to the Ministerial Code. Yet this obligation to abide by the Rules is not backed by any means of enforcement. In its first report, the CSPL considered whether a legally enforceable scheme should be implemented for former Ministers and SpAds. The Civil Service had been subject to post-separation restrictions for some time before that, but these had been complied with voluntarily.[42] Ultimately, the CSPL decided that the advisory system had operated successfully for the Civil Service and so could be extended to Ministers and SpAds, relying on the threat of negative publicity and reputational damage to ensure the Rules were adhered to. However, an earlier iteration of this Committee was critical of this approach. It argued that relying on the "sanction [of] public opinion and reputational damage" to enforce compliance is not impartial or objective.[43] In particular, it is dependent on the media which tends to towards the sensational and is focused on the small number of high profile and controversial cases. Some cases, which may not have been particularly problematic in reality, are subject to intense scrutiny and adverse comment,[44] while the majority go unreported. The CSPL noted in its 2021 report that, with only non-compliance reported, the result is a lack of public confidence in the system:

> No system of ethical regulation can sustain the trust of the public, or those it is meant to regulate, when its primary method of enforcement serves only to highlight the lack of any meaningful sanctions for rule-breakers.[45]

22. When proposing the extension of the Rules to Ministers, the CSPL acknowledged that the system based on voluntary compliance might need to be revisited if the threat of negative publicity proved to be an insufficient incentive to ensure compliance.[46] Certainly, the evidence we received suggests that this is the case and the need for a robust means of enforcing the Rules should be explored. Current ACOBA Chair Lord Pickles was clear that he saw his inability to enforce ACOBA's decisions as a significant shortcoming:

> …there needs to be credibility and sanctions to get them over the threshold of credibility. If you don't do sanctions, no one will listen to you and no one will believe you. If you don't treat civil servants equally to Members of Parliament, or Members of the Lords, no one will take you seriously. You won't get it done; you will just make it worse. Sanctions is the key.[47]

23. Nigel Boardman recommended that, to further incentivise compliance, ACOBA's decisions should be systematically taken into account by the Commissioner for Public

41 Cabinet Office Ministerial Code May 2022 para. 7.25, Annex B; the Civil Service Management Code November 2016, S.4.3, Annex A; Code of Conduct for Special Advisers, December 2016, para. 6; FCO Diplomatic Service Code (DSR28)
42 CSPL Standards in Public Life: First Report of the Committee on Standards in Public Life Volume I Cm 2850–1 1995, para. 28
43 PASC Business Appointment Rules 3rd Report of Session 2012–13 HC 404 [incorporating HC 1762-i-v, Session 2010–12], para. 26
44 Bill Crothers' case appears to an example of this. See PACAC Propriety of Governance in Light of Greensill: An Interim Report 3rd Report of Session 2021–22 HC 59, Chapter 4
45 CSPL Upholding Standards in Public Life 2021, para 4.25
46 CSPL Standards in Public Life: First Report of the Committee on Standards in Public Life Volume I Cm 2850–1 1995, para. 30
47 Q392 (Lord Pickles)

Appointments in considering future public appointments, in the award of honours, and by the House of Lords Appointment Commission in considering nominations for peerages. In each case, compliance with the Rules would be a factor in deciding the appropriateness of the nomination.[48] This might well act as an incentive to comply for some, but certainly not all those who leave Government or the Civil Service aspire to either major honours, a peerage, or a significant Public Appointment subsequent to their departure. Furthermore, it would require future governments to voluntarily abide by the principle that those in breach of the Rules will not be considered for honours, peerages or public appointments. We support this measure but are of the view that it is not sufficient in itself to instil public confidence in the system as a whole.

24. Spotlight on Corruption, Transparency International and the UK Anti-Corruption Coalition all argued that ACOBA needed to be placed on a statutory footing and given the powers to legally enforce the Rules. The CSPL also argues that all the ethics watchdogs should become statutory bodies.[49] Lord Pickles, however, thought a focus on making ACOBA statutory was not a priority. Whilst broadly supportive, it risked being a distraction from more immediate steps that could be taken.[50]

25. Following his inquiry into Greensill, Nigel Boardman argued that the Rules needed to be legally enforceable. For civil servants and SpAds, this could be achieved through restrictive covenants in their contracts of employment.[51] Ministers do not have employment contracts, however. Instead, he proposes that, on appointment, Ministers be required to sign a legally binding "Deed of Undertaking" that requires them to comply with the Rules and with ACOBA's decisions for two years after they leave office. Remedial action might include an injunction preventing employment that breaches ACOBA's advice or recouping money from pensions or severance payments, for example.[52] This could require ACOBA to be put on a statutory basis, with the powers to enforce this through the courts. Alternatively, ACOBA could continue its advisory role, and Government could be then responsible for enforcement on the basis of that advice. Darren Tierney, the Head of the Propriety and Ethics Team in the Cabinet Office, suggested that contractual rather than statutory solutions were currently being explored by Government.[53]

26. **The threat of legal action and the resulting sanction for breaching the Business Appointment Rules would, in our view, be a sufficient deterrent to ensure that such action would be needed only rarely.**

27. ***The Government has told us that it is exploring contractual mechanisms to ensure that the Business Appointment Rules are legally enforceable. We support this. In its response to this report, the Government should outline the form that this will take and the sanctions which will apply. It should also outline the timeline for implementation.***

48 N. Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes Part 1: Report of the Facts 21 July 2021, p.19

49 CSPL Upholding Standards in Public Life November 2021, para. 2.35

50 Q395 (Lord Pickles)

51 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 2: Recommendations and Suggestions 5 August 2021, p.18

52 CSPL Upholding Standards in Public Life November 2021, para.4.28

53 Q501 (Darren Tierney)

28. ***Enforcement and the ability to sanction those that breach the Rules is fundamental to ensuring a regulatory regime that commands public confidence. This could be achieved by the Government pursuing those who do not comply with their obligations under the Business Appointment Rules through the courts.***

29. ***Putting ACOBA on a statutory basis is not a prerequisite for the Rules to be legally enforced and should not delay it being put into operation. Nonetheless, to reflect the importance of its role and to clarify the status of it and the Rules, we recommend that ACOBA should be placed on a statutory basis as soon as possible.***

Scope

30. Along with the lack of sanction, the scope of the Business Appointment Rules was a concern raised during the inquiry and, in particular, whether the two-year period in which the Rules apply might, in some circumstances, be insufficient, and whether all those who should be subject to the Rules currently are. This was particularly apparent in the Greensill case that prompted this inquiry, where those involved were generally found to be in compliance with the Rules. Lex Greensill was employed first as a consultant and, later, as a Crown Representative, with neither role being subject to the Rules or ACOBA's oversight. Similarly, the former Prime Minister David Cameron was subject to the Rules but only became involved with Greensill Capital once the two-year term that would have prohibited, for example, his lobbying on its behalf, had expired. Only the Government's former Chief Commercial Officer was found to have breached the Rules and that was a small, inadvertent breach whereby he should have consulted ACOBA when his role with Greensill Capital changed from being an advisor to a full-time director. He was, however, not in breach of the Rules when he first joined the company.[54]

31. To prevent the possibility that the offer of prospective future employment might influence policy making, the Rules currently prohibit former Ministers and Officials from taking employment with companies with which they have had a significant relationship with or responsibility for during their time in Government. The CSPL argues that this is too narrow and that perceived conflicts can still arise where a Minister or Official takes up employment in a sector for which they have had significant policy responsibility, even if they have not had a direct relationship with the hiring firm itself.[55]

32. To address the perception that employment might also be offered as reward for creating a favourable policy environment for a firm, rather than only for decisions that benefit it directly, our predecessor Committee suggested that the Rules be extended to prohibit post-separation employment in sectors where the applicant has had significant policy responsibility or oversight.[56] The CSPL make a similar recommendation in *Upholding Standards in Standards in Public Life*.[57]

33. Measures to address perceptions of conflicts of interest must be proportionate. Drawn too tightly, such a move might make it impossible for former Ministers or Officials to gain any employment at all. However, Lord Pickles did not think that such a concern was

54 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 1: Report of the Facts 21 July 2021, p.97
55 CSPL Upholding Standards in Public Life November 2021, para. 4.15
56 PACAC Managing Ministers' and officials' conflicts of interest: time for clearer values, principles and action HC 252 13th Report of Session 2016–17, para. 63
57 CSPL Upholding Standards in Public Life November 2021, para. 4.15

justified. Such a restriction should, he argued, only be applied to Ministers and the most senior Officials who he thought would have the talent and experience relevant in sectors outside those that they have had recent responsibility for:

> perhaps if you have been regulating telecommunications, you don't take a job in telecommunications. Perhaps if you were Housing Minister, you don't take a job with a housing company. It is two years. Many people come from a housing background. I think it might be different if people were returning to their previous employment, but I don't think it is unreasonable to say that.[58]

34. Broadening the scope of the Rules to a two-year, sector-wide ban on employment would have to be carefully implemented to ensure that it did not act as a deterrent to Civil Service recruitment, particularly if it prohibited employment where the applicant had only an indirect or tangential involvement. To this end, the CSPL recommended that the Rules be extended to prohibit employment in sectors where the applicant has had "significant and direct responsibility for policy, regulation, or the awarding of contracts relevant to the hiring company".[59]

35. ***The Government should implement the CSPL's recommendation to extend the scope of the Business Appointment Rules to prohibit employment in sectors where the applicant has had "significant and direct" responsibility for policy, regulation or the award of contracts rather than only with firms they have had a relationship with. Such a measure should be applied to Ministers as well as SpAds and Officials at SCS3 and SCS4 grades. Moreover, the implications of this should be made more prominent to prospective hires prior to commencement.***

36. A balance needs to be struck between detailing specific activity that is prohibited and a more principles-based approach that seeks to inform and guide the behaviour of those subject to it. In this respect, it should be emphasised that the Rules should not be viewed as a substitute for ethical behaviour and judgement. Lord Pickles noted the importance of "the smell test" when ACOBA is considering applications from former Ministers and Officials.[60] Sir John Major explained to us how, after leaving office, he was conscious of the ethical constraints he was under as a former Prime Minister, constraints which went beyond any detailed rules:

> There were two things I was clear that I should not do, and did not do. One was open my prime ministerial address book, and the other was lobby. Although I have had a number of jobs over the years, I can honestly say to you that I have not lobbied and I have not opened my address book.[61]

37. He noted the danger of privileging an approach based around compliance with specific rules rather than a more principles-based approach:

> one reason why I was banging on about individual judgment and conventions, because if you started writing everything down you would get all sorts of problems about whether something was in the rules. The classic

58 Q401 (Lord Pickles)
59 CSPL Upholding Standards in Public Life November 2021, para. 4.14
60 Q355 (Lord Pickles)
61 Q661 (Sir John Major)

> defence we have heard in Parliament on a number of occasions over quite a long time is, "I was advised to do this. It was in the rules"….There was a lot of that at the time of MPs' expenses, for example, and very possibly what was said was true, but it did not pass the smell test.[62]

38. **We do not think that a system based solely around voluntary compliance with general principles is sufficient to maintain public confidence in the integrity of the system regulating the 'revolving door' and have recommended that the Business Appointment Rules are legally enforced and that their content is strengthened. Nonetheless, the need for those subject to the Rules to consider narrow compliance with them when considering future employment opportunities, alongside exercising judgement about what is appropriate, is evident. Neither is such judgement limited to the two-year window in which the Business Appointment Rules apply.**

39. **Those who seek only to comply with the Rules sensu stricto and do not apply their own "smell test" when considering future opportunities will continue to risk significant personal reputational damage.**

62 Q662 (Sir John Major)

3 Appointments

40. Every year, Ministers make numerous appointments. Some of these appointments are to roles which can have a significant impact on public life. The process for making many of these appointments, though not all of them, is regulated by the Commissioner for Public Appointments according to the Governance Code for Public Appointments.[63]

41. The nature of many of these appointments has seen some become the subject of political controversy, with Ministers accused of cronyism in their public appointments.[64] Such criticisms are, in one sense, misconceived: Ministers are entitled to make appointments and to appoint allies if they see fit. They are often, after all, integral to the implementation of the Government's policy. However, many of the roles also require a certain independence from Government, as well as a degree of expertise or technical knowledge. As former Commissioner for Public Appointments, Rt. Hon. Sir Peter Riddell, emphasised to us, the power of ministerial patronage is balanced by the requirement that they meet a certain threshold of merit:

> It is a ministerially-driven process; that is right. My remit was to ensure the process leading up a ministerial decision was fair and open and so on, and that it wasn't being undermined.[65]

The Commissioner for Public Appointments

42. The Commissioner for Public Appointments was established in 1995 following a recommendation in the first report of the CSPL. It is established under an Order in Council to ensure appointments within its remit are made in accordance with the Governance Code for Public Appointments.[66] The posts that are within the Commissioner's remit are specified in the relevant Order.

43. The Commissioner must carry out audits of the procedures and practices followed by appointing authorities in making public appointments, including the interpretation and application by them of the Governance Code, including the principles of public appointments. The Commissioner may also:

- conduct an investigation into any aspect of public appointments with the object of improving their quality;
- conduct an inquiry into the procedures and practices followed by an appointing authority in relation to any public appointment whether in response to a complaint or otherwise; and
- require appointing authorities to publish specified summary information relating to public appointments.[67]

63 The term "Public Appointments" refers to those Ministerial appointments regulated by the Commissioner for Public Appointments.
64 "Toby Young's appointment reinforces our worst fears about establishment hypocrisy" Guardian 27 February 2018; "A stich-up too far? Why Paul Dacre won't be leading Ofcom after all New Statesman 23 November 2021
65 Q311 (Sir Peter Riddell)
66 Public Appointments (No. 2) Order in Council 2019
67 Public Appointments (No. 2) Order in Council 2019

Under the Governance Code, the Commissioner is also tasked with being an advocate for diversity and should work with "departments and the Centre for Public Appointments in encouraging good candidates from a diverse range of backgrounds to consider applying for a public appointment".[68] The Commissioner may also publish thematic reviews focusing on different elements of process to help inform best practice.

44. There are a set of principles governing the public appointment processes, based around the Nolan principles:

a) Ministerial responsibility – The ultimate responsibility for appointments and thus the selection of those appointed rests with Ministers who are accountable to Parliament for their decisions and actions. Welsh Ministers are accountable to the [Welsh Parliament/Senedd Cymru].

b) Selflessness – Ministers when making appointments should act solely in terms of the public interest.

c) Integrity – Ministers when making appointments must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

d) Merit – All public appointments should be governed by the principle of appointment on merit. This means providing Ministers with a choice of high quality candidates, drawn from a strong, diverse field, whose skills, experiences and qualities have been judged to meet the needs of the public body or statutory office in question.

e) Openness – Processes for making public appointments should be open and transparent.

f) Diversity – Public appointments should reflect the diversity of the society in which we live and appointments should be made taking account of the need to appoint boards which include a balance of skills and backgrounds.

g) Assurance – There should be established assurance processes with appropriate checks and balances. The Commissioner for Public Appointments has an important role in providing independent assurance that public appointments are made in accordance with these Principles and this Governance Code.

h) Fairness – Selection processes should be fair, impartial and each candidate must be assessed against the same criteria for the role in question.[69]

68 Cabinet Office Governance Code on Public Appointments December 2016, para. 4.6

69 Cabinet Office Governance Code on Public Appointments December 2016, para 2.1. Northern Ireland and Scotland have their own public appointments commissioners.

The Role of Ministers in Public Appointments

45. Following the 2016 Grimstone Review of Public Appointments, the public appointments process underwent significant change, as did the role of the Commissioner.[70] Ministers' hands were strengthened in the appointments process, with transparency being the main means by which their conduct was to be regulated. The Commissioner moved from being an active participant in, to a regulator or overseer of, the public appointments process.[71] The Governance Code became the property of the Government rather than the Commissioner (though the Commissioner is consulted on changes to it) and the Commissioner-appointed Public Appointments Assessors that had sat as independent members of appointment panels were abolished. Instead, 'Significant Appointments' now require a Senior Independent Panel Member ("SIPM"), appointed by Government though with the approval of the Commissioner.[72]

46. Under the current Code, Ministers must be consulted before a competition opens to agree a job specification for the role, the length of tenure and remuneration. Ministers should agree how the post will be advertised, the selection process to be used, and the composition of Advisory Assessment Panels, including the choice of SIPM (though following consultation with the Commissioner). At the end of the process, Ministers are presented with the Panels' advice and a choice of candidates the Panel considers to be appointable from which they may choose their preferred candidate.

47. Ministers must consider the views of the advisory panel but are not bound by them. For example, they can reject the panel's advice and decide to re-run the competition instead. They can also appoint someone the Panel has deemed not to be appointable, though in such cases they must consult the Commissioner for Public Appointments in good time before a public announcement is made and will be required to justify their decision publicly.

48. In exceptional cases, Ministers may decide to appoint a candidate without a competition. They must make this decision public alongside their reasons for doing so. They must consult the Commissioner for Public Appointments in good time before the appointment is publicly announced.

49. Some of those posts listed as "Significant Public Appointments" are subject to a pre-appointment hearing before a Select Committee of the House of Commons. After the selection process has been completed, but before they commence in the role, the candidate must appear before the relevant Select Committee, which can then choose to endorse them or not. The Committees cannot veto the nomination.[73] However, a Committee's failure to endorse a nominated candidate can undermine their credibility even before they take up post.

70 Sir Gerry Grimstone Better Public Appointments A Review of the Public Appointments Process Cabinet Office, March 2016

71 The pre-Grimstone public appointments process is detailed in Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies August 2009

72 Significant Public Appointments are mostly the chairs of major government agencies. Commissioner for Public Appointments HM Government Significant Appointments 2017. A subset of those is subject to a pre-appointment hearing with the relevant departmental Select Committee. See Cabinet Office Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees 2019, Annex D

73 The exception to this is the Treasury Select Committee which can veto the appointment of the Chair of the Office of Budget Responsibility.

Balance

50. The appointments process is a balance between political and merit-based considerations: "either constrained open competition or constrained political patronage".[74] Despite the extensive role that Ministers have in the public appointments process, it appears that some have sought to control the process still further. Before stepping down as Commissioner, Sir Peter wrote to the Chair of the CSPL to outline concerns he had.[75] It should be noted that, in his view, the existing safeguards had largely held during his time in office and that he had seen no instances where a candidate deemed unappointable was appointed.[76] Whilst the Commissioner has few powers of outright veto, Sir Peter felt that the threat of negative publicity he could generate by publicly highlighting what he felt was an attempt to subvert the Code, or the threat of it, had generally been sufficient to ensure Ministers did not undermine the process. Nonetheless, there are, he suggested:

> signs that this balance is under threat- that some at the centre of government want not only to have the final say but to tilt the competition system in their favour to appoint their allies.[77]

51. Ministers were doing this, he suggested, through attempts to appoint fellow party members as the SIPM on panels, by packing interview panels with allies (including those with no expertise or experience relevant to the post), and by rejecting strong candidates who had passed the recruitment panel. Whilst the Commissioner can prevent SIPMs whose independence might be questionable from being appointed, these other measures were both permissible within the current content of the Code. The CSPL also highlighted the use of pre-briefing the media by Ministers' offices, naming the preferred next appointee to a particular post before the competition has begun, the effect of which can be to deter strong candidates from applying for a competition where the results are almost already a foregone conclusion.[78]

52. The CSPL agreed that the balance between ministerial discretion and merit-based requirements is under threat.[79] The CSPL argued in its report that, whilst the system generally works, it relies on behaviour rather than rules to do so. In particular, it is dependent on the willingness of Ministers to act with restraint. The system, the CSPL says, is:

> highly dependent on informal mechanisms, including the willingness of ministers to act with restraint and the preparedness of the Commissioner to speak out against breaches of the letter or the spirit of the code.[80]

The Government is responsible for the appointment of the Commissioner, and the checks on that notwithstanding, a future appointment might be less willing than Sir Peter was to resist Ministers deemed to be in breach of the Code. Furthermore, the threat of negative publicity may not necessarily act as a sufficient deterrent in a partisan and populist political culture in which any perceived constraint on the actions of Government can be presented as politically motivated and 'anti-democratic'.

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74 CSPL Upholding Standards in Public Life November 2021, para.5.5
75 Commissioner for Public Appointments to Chair of CSPL 7 October 2020
76 Q308 (Sir Peter Riddell)
77 Commissioner for Public Appointments to Chair of CSPL 7 October 2020
78 CSPL Upholding Standards in Public Life November 2021, para. 5.9
79 CSPL Upholding Standards in Public Life November 2021, para. 5.10
80 CSPL Upholding Standards in Public Life November 2021, para. 5.8

53. Sir Peter also suggests that the reverse has been the case, with well-qualified candidates deemed appointable by the panel vetoed by the Minister on the grounds of personal politics unrelated to the role.[81] The Institute for Government ("IfG") has also reported that Ministers had requested candidates to sign up to statements supportive of Government policy before their appointment.[82] The damage to the credibility of the candidate does not seem to be taken into account, however: suspicion that an appointee's connections trumped considerations of merit undermines their credibility and ability to perform the job to which they have been appointed.[83] Nonetheless, Select Committees should take a more active role in probing such matters, rather than performing only cursory assessments of appointability in pre-appointment hearings. The CSPL concludes that "it is unlikely that a system so dependent on personal responsibility will be sustainable in the long term".[84]

54. Sir Peter contrasted the Commissioner's lack of a statutory basis with the First Civil Service Commissioner's ("FCSC").[85] Reflecting on his term as the then FCSC, Ian Watmore told us that he felt the statutory basis of that post (it is established under the Constitutional Reform and Governance Act 2010) was significant in enabling him to stand up to Ministers tempted to 'stretch' existing safeguards surrounding Civil Service recruitment. The role, he said, was "immensely strengthened" by having the "power of CRAG" underpinning it.[86] Given his concern that the balance between merit-based criteria and political factors is under threat, Sir Peter felt the Commissioner for Public Appointments should similarly become a statutory appointment. He did not think it would change the role but that it was needed "in extremis" to ensure that the Code is consistently adhered to. He told us that "[y]ou need to have robust rules to deal with variations in practice and behaviour" and a statutory underpinning would contribute to that.[87]

55. ***The Commissioner for Public Appointments should be placed on a statutory basis in an Act of Parliament at the earliest opportunity. The legislation should make clear that the Commissioner's role is to ensure that public appointments made by Ministers are in compliance with the Governance Code. It should also detail the process by which the Commissioner is appointed, the term of office, and their role in revisions to the Governance Code for Public Appointments.***

Proposed Changes to the Appointment Process

56. Again, it should be emphasised that the process for Public Appointments generally works well, with Ministerial patronage balanced by requirements of merit. Administrative delays are a more common problem than excessive political intervention.[88] However, there have clearly been cases where governments have sought to appoint allies who might be unwilling to criticise or stand up to Ministers in executing the functions of certain public offices, or as a reward for previous political support.[89] It is important that public confidence in the appointments process is not jeopardised by a minority of cases.

81 Sir Peter Riddell Reflections on due diligence CPA 6 March 2020
82 Matthew Gill and Grant Dalton Reforming Public Appointments Institute for Government 2022, p.30
83 Q315 (Sir Peter Riddell)
84 CSPL Upholding Standards in Public Life November 2021, para. 5.9
85 Q320 (Sir Peter Riddell)
86 PACAC Oral evidence: The Civil Service Commission HC 1314 16 March 2021, Q43–44 (Ian Watmore)
87 Q320, Q323 (Sir Peter Riddell)
88 Q327 (Sir Peter Riddell)
89 "Tories nudge donors into plum state jobs" The Times 12 February 2022

57. The possibility that a Minister might force through the appointment of a candidate a panel had deemed unappointable nevertheless remains a significant concern, and Sir Peter suggested that Ministers be expressly barred from making such appointments.[90] The IfG has also recommended this.[91] This followed the case of the competition for the Chair of media regulator Ofcom in 2021, where the Government's preferred candidate, former Daily Mail editor Paul Dacre, was apparently deemed unappointable by the panel. The responsible Minister called for the competition to be rerun, seemingly to overturn this decision and to ensure his preferred outcome. The negative publicity generated led Paul Dacre not to reapply.[92] Following this, the Digital Culture Media and Sport (DCMS) Committee recommended that candidates deemed unappointable should not be eligible to apply if a competition is rerun.[93] Such a rule would have prevented the Ofcom appointment process descending into what the DCMS Committee described as a "shambles".[94]

58. Whilst sympathetic, the CSPL suggested that such a prohibition interfered with the principle that appointments are ultimately a matter of Ministerial responsibility.[95] Rather than a prohibition, the CSPL's position builds on the current "comply or explain" principle, recommending that, in addition to the existing requirement to consult the Commissioner when seeking to appoint a candidate deemed unappointable, a Minister should be required to justify the decision in an appearance before the relevant departmental Select Committee. The IfG makes a similar recommendation.[96]

59. ***The system of public appointments is predicated on the principle that such appointments are the responsibility of the relevant Minister and it is they that should be held accountable for them. On this basis, we endorse the recommendation of the Committee on Standards in Public Life that Ministers wishing to appoint a candidate deemed unappointable for a role or, if the competition is being rerun, who was previously deemed unappointable, should have to appear before the relevant Select Committee to explain their decision and to do so before the appointment is confirmed. The Governance Code should be updated accordingly.***

Panels

60. Following the 2016 Grimstone Review, Ministers are responsible for the composition of the recruitment panels. For Significant Appointments, this includes the nomination of the SIPM, though that is the subject of consultation with the Commissioner. As the only aspect of the panel where Ministerial control is checked by the Commissioner, the role of the SIPM as guarantor of the integrity of the process is key. As such, Sir Peter felt that the link between the SIPM and the Commissioner could be strengthened. Currently, the SIPM raises concerns about breaches of the Governance Code with the appointing department, Minister or the Commissioner. The CSPL reiterated Sir Peter's suggestion that they should instead be required to formally report to the Commissioner on the conduct

90 Q315 (Sir Peter Riddell)
91 Matthew Gill and Grant Dalton Reforming Public Appointments Institute for Government 2022, p.34
92 Lord Dacre Letter to the Times 19 November 2021
93 Digital, Culture, Media and Sport select committee Unappointable' candidates should be ruled out from re-applying to become next Chair of Ofcom 15 September 2021
94 Digital, Culture, Media and Sport Select Committee Pre-appointment hearing for Chair of Ofcom HC 48, 11th Report of Session 2021–22 1 April 2022, p.8
95 CSPL Upholding Standards in Public Life November 2021, para. 5.11
96 Matthew Gill and Grant Dalton Reforming Public Appointments Institute for Government 2022, p.34

of the appointment process.[97]

61. ***Rather than only raising concerns, Senior Independent Panel Members should report to the Commissioner for Public Appointments on the conduct of all significant public appointments processes. The Governance Code should be updated accordingly.***

Select Committee oversight

62. Some of the most significant appointments are subject to a pre-appointment hearing with the relevant Select Committee. The purpose of these is not to rerun the competition but to provide a further safeguard that the candidate meets the merit requirements of the role.[98] It has the advantage of being conducted in public. In almost all cases, the Select Committee's verdict is only advisory; Ministers are free to ignore the failure of a Select Committee to endorse their preferred candidate for a role and proceed with the appointment. The exception to this is the appointment of the Chair of the Office for Budget Responsibility, which requires the endorsement of the House of Commons Treasury Select Committee to proceed. The CSPL notes that some, but not all, of the chairs of the ethics watchdogs are subject to the Significant Appointments process and include a Select Committee pre-appointment hearing (the Independent Adviser on Ministers' Interests is not, for example).[99] It recommends that, given the constitutional significance of the posts, the appointments process should be standardised, with all treated as significant public appointments. The IfG also recommends that the relevant Select Committee (currently PACAC) should have the right to veto appointments to these constitutional watchdog roles.

63. ***We have seen the extensive scope for Ministerial discretion in the public appointments process and that, in addition to the self-restraint of Ministers, the role of the Commissioner has been vital in ensuring that the principles in Governance Code have been adhered to. The Chairs of the other ethics watchdogs play a similar role in safeguarding the integrity of public life. The independence required for these roles is analogous to that of the Chair of the Office of Budget Responsibility and should be treated as such. Given this, Ministers' nominated candidates for these roles should require the endorsement of the relevant Select Committee. Candidates that are not endorsed by the relevant Select Committee for these posts should not be appointed.***

64. Aside from the patronage issues, a certain casualness towards the pre-appointment hearing component of public appointments on the part of successive governments has often been discernible. Most appointments are made for fixed terms, so the timing of successive competitions is usually known well in advance. Despite this, the IfG has suggested that recruitment competitions are too often begun too late.[100] This has frequently seen extensions or interim appointments required: the Commissioner's Annual Report listed 25 occasions in the last reporting year when such extensions or interim appointments were required to allow for a competition to be completed and others as a result of delayed competitions were required.[101] This has included appointments scrutinised by this Committee, such

97 CSPL Upholding Standards in Public Life November 2021, para. 5.18
98 PACAC Pre-Appointment Hearings: Promoting Best Practice 10th Report of Session 2017–19, HC 909
99 Cabinet Office Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees January 2019
100 Matthew Gill and Grant Dalton Reforming public appointments Institute for Government, p.6
101 Commissioner for Public Appointments Annual Report 2021–22, p. 25–28

as the First Civil Service Commissioner and the Chair of the UK Statistics Authority.[102] Indeed, Sir Peter's five-year term was extended by six months to allow for the recruitment process for his successor to take place.[103] This has meant that the Select Committee stage has too often been rushed.

65. **This Committee, alongside other Select Committees, has tried to accommodate the Government when pre-appointment hearings have needed to be completed urgently, scheduling them at short notice and reporting almost immediately. However, this has now become routine. Our predecessor Committee was assured that this would be addressed, yet no improvement has been evident. This has given rise to the assumption that the Government has intended to press on with the appointment, regardless of the view of Select Committees.**

66. ***Too often, the Government has appeared to approach the pre-appointments process as a tick box exercise rather than an important component in the public appointments process. The Committee's patience in this respect is not limitless. We are aware that this frustration is shared by other Select Committees. When making appointments that require a pre-appointment hearing, sufficient time must be allowed for this stage to be completed.***

Unregulated Appointments

67. The Order in Council under which the role of the Commissioner for Public Appointments is established specifies the posts which are subject to the Governance Code and the Commissioner's oversight. Yet Ministers often make appointments outside this code and without the oversight of the Commissioner. Such appointments also fall outside the remit of the FCSC, who has responsibility for regulating Civil Service recruitment. In his letter to the Chair of the CSPL, Sir Peter noted the apparent growth of these unregulated appointments.[104]

68. Some recommendations of the Grimstone Review were, as discussed above, implemented by successive governments, meaning that Ministers' hands were strengthened in the appointments process. Yet, Grimstone also called for all public appointments to be regulated, which has not been implemented to date. The IfG note that it is often not clear why some roles are regulated while others are not, with only appointment to certain public bodies being included:

> We have found no reason why ministerial appointments to executive agencies like the Insolvency Service, the National Infrastructure Commission or the Medicines and Healthcare products Regulatory Agency should not be regulated, especially as some of these appointees—particularly their chairs—can receive significant remuneration.[105]

102 Cabinet Office Government announces interim UK Statistics Authority Chair 31 March 2022; PACAC The appointment of Rt Hon the Baroness Stuart of Edgbaston as First Civil Service Commissioner 6th Report of Session 2021–22 HC 984, para. 12

103 PACAC Appointment of William Shawcross as Commissioner for Public Appointments 4th Report of Session 2021–22 HC 662, para. 5

104 Commissioner for Public Appointments to Chair of CSPL 7 October 2020

105 Matthew Gill and Grant Dalton Reforming public appointments Institute for Government, p.43

69. A subset of these unregulated appointments are direct ministerial appointments. These appointments, made by Ministers to non-statutory roles with no apparent due process, include various special envoy and czar roles.[106] Several such appointments, with close links to the Conservative Party, were prominent in the Government's response to the COVID-19 pandemic.[107] Furthermore, whilst Lex Greensill was initially appointed as a consultant in the Cabinet Office, Nigel Boardman noted that, in practice, his role more closely resembled that of a direct ministerial appointment.[108]

70. These direct appointments are not subject to any of the governance codes that apply to Public Appointments, civil servants or SpAds. The Cabinet Secretary said however that they were still subject to the Nolan Principles.[109] But the Nolan Principles, which underpin the various codes that regulate public life, do not in themselves constitute a clear code of conduct, nor can they be regulated or enforced in such circumstances. Some of the direct appointments have appeared to operate in quasi-executive roles, for example, and though SpAds are prohibited from instructing civil servants, direct appointments may do so. Additionally, some have appeared before Select Committees to account for their actions, though it is not clear whether this is the general expectation. The CSPL summarised the lack of clarity surrounding their use:

> Though it may be appropriate in some circumstances for appointments to be unregulated—for example for the heads of short-term policy reviews or some tsars or envoys–there is a lack of transparency on the number and nature of unregulated appointees. Without further information on these roles, it is impossible to ascertain the influence unregulated appointees have over public policy, or judge whether it is appropriate for such roles to remain unregulated.[110]

71. ***To improve transparency, Cabinet Secretary Simon Case told the Committee that he considered the suggestion that a register of direct appointments be maintained and published as "an obvious thing to do".***[111] ***We agree and recommend that departments begin to compile and publish such registers immediately and that they are kept updated contemporaneously.***

72. Steps have also been taken to clarify the appropriate use of direct appointments. Guidance has been produced by the Cabinet Office outlining when their use might be considered and best practice for their engagement.[112] The terms of their appointments are currently set out in their letters of engagement. These letters should detail the role for which the direct appointment is being made, the length of the appointment, and the accountability arrangements.

106 Cabinet Office Direct Appointments 31 May 2022
107 These included Conservative Peers Lord Deighton, Baroness Harding, and Lord Mendoza as well as Kate Bingham, whose husband is a Conservative MP and Minister.
108 Nigel Boardman Review into the Development and Use of Supply Chain Finance (and Associated Schemes) in Government Part 1: Report of the Facts 21 July 2021, p.8
109 PACAC Oral evidence: The work of the Cabinet Office HC 118 22 October 2020, Q434
110 CSPL Upholding Standards in Public Life November 2021, para. 5.25
111 Q528 (Simon Case)
112 Q463 (Darren Tierney)

73. ***The letters of engagement issued to direct appointments are tantamount to a contract of employment. They state the purpose for which the appointment is being made, the term length, and their accountability. These letters should be shared with the Chair of the relevant Select Committee when the appointment is made.***

4 The Ministerial Code

74. The regulation of Ministers' conduct has become one of the highest profile aspects of standards in recent months, with the resignation of the two most recent holders of the role of Independent Adviser on Ministers' Interests in politically controversial circumstances. In November 2020, Sir Alex Allan resigned after serving as Independent Adviser for nearly a decade. He had been asked to investigate whether a case of alleged bullying by the then Home Secretary, which had resulted in the resignation of the Home Office Permanent Secretary and a subsequent legal case for unfair dismissal, constituted a breach of the Ministerial Code. He concluded it had done so, but the then Prime Minister rejected his finding.[113] Sir Alex's successor, Lord Geidt, served as Independent Adviser for a little over a year before his resignation in June 2022, shortly after an appearance before this Committee. His had been a tumultuous tenure, with an early investigation into the funding of the refurbishment of the Prime Ministerial residence in Downing Street by a Conservative Party donor. It subsequently emerged, following the publication of the findings of a separate investigation by the Electoral Commission into the same issue, that Lord Geidt had not been supplied with the details of messages between the then Prime Minister and the donor relevant to his investigation.[114] The Independent Adviser was not involved in the investigation into the breaches of COVID-19 restrictions in Downing Street, but Lord Geidt expressed his dissatisfaction with the then Prime Minister's conduct in the matter when he resigned after being asked to provide "advanced cover" for a potential breach of international law by the then Government.[115]

75. Cabinet Secretary Simon Case acknowledged the greater public profile the Independent Adviser had under the Johnson Government and the greater pressure that resulted from this. Faced with a Government that believed it had a "mandate to test established boundaries" and which focused on "accountability to people in Parliament, not on the unelected advisory structures",[116] the Independent Adviser's role had become more challenging:

> The [Independent Adviser] job is undoubtedly a difficult one, especially in that context that I described, perhaps even more so now that I think more and more people are asking these advisory functions to take on the role of internal—well, a stronger internal challenge is not quite the right phrase, but there is certainly a lot more pressure on these roles than there was before.[117]

The Independent Adviser on Ministers' Interests

76. The post of Independent Adviser on Ministers' Interests was created following a recommendation of the CSPL's Ninth Report.[118] There have been only four holders of the post to date. Sir John Bourn, then Comptroller and Auditor General at the National Audit Office who held both roles concurrently, was appointed the first Independent Adviser in 2006. Sir Philip Mawer, a former Secretary to the General Synod and Parliamentary

113 Cabinet Office Statement from Sir Alex Allan 20 November 2020
114 Prime Minister to Independent Adviser on Ministers' Interests 21 December 2021
115 Lord Geidt to Chair of PACAC 17 June 2022
116 Q408 (Simon Case)
117 Q417 (Simon Case)
118 CSPL Defining the Boundaries within the Executive: Ministers, Special Advisers and the permanent Civil Service Cm 5775 April 2003

Commissioner for Standards, succeeded him in 2008. In 2011, Sir Alex Allan, a former Civil Servant who had been, amongst other things, Principal Private Secretary to the Chancellor of the Exchequer and the Prime Minister, Chair of the Joint Intelligence Committee, Permanent Secretary at the Ministry of Justice, and High Commissioner to Australia, was appointed Independent Adviser. He held the role until his resignation in November 2020 and was succeeded, following a hiatus of several months in which the post was vacant, by Lord Geidt, former Private Secretary to her late Majesty The Queen. Lord Geidt resigned as Independent Adviser in June 2022 and, at the time of writing, the post remains vacant. Former Prime Minister, Rt. Hon. Liz Truss MP suggested that she may not appoint a new Independent Adviser on the grounds that it was unnecessary as she herself "has always acted with integrity".[119] However, this statement does seem to suggest a fundamental misunderstanding of the role; the Independent Adviser was established both to provide an independent source of advice on Ministers' interests, as well as to ensure that any investigation under the Ministerial Code did not impact on the relationship between senior Officials (who had previously conducted investigations) who advise Ministers and implement their policies, but whose conduct they might be required to investigate. It has now been confirmed that Prime Minister Rishi Sunak intends to appoint a new Independent Adviser.[120] This confirmation is welcome, though we note that the post was vacant for five months following Sir Alex Allan's resignation. Given Lord Geidt resigned in June, we would expect an appointment to be made as swiftly as possible.

77. The Independent Adviser's role has no statutory definition and the details of the role, set out in the terms of reference, are in the gift of the Prime Minister. The main elements of the role are to:

- Advise ministers on conflicts of interest and their mitigation;
- Investigate breaches of the Ministerial Code; and
- Produce an annual report to the Prime Minister outlining activity for the year.[121]

78. In spite of the profile of the investigatory part of the remit, holders of the post emphasised the importance of the advisory role, both in terms workload—Sir Philip Mawer described it as the "bread and butter" of the job[122]—but also as providing "a critical reservoir of information upon which…public confidence can rest".[123] Lord Geidt described the role as

> the sort of bedrock for the climate of assessing ministerial behaviour, in so far as it touches on actual and perceived conflicts of interest.[124]

79. The Ministerial Code makes clear the responsibility of Ministers to identify potential conflicts of interest, real or perceived, report them, and to seek advice about how to address them from their Permanent Secretary and the Independent Adviser.[125] The Ministerial Code also requires that a statement covering ministerial interests is published twice yearly.[126]

119 "Liz Truss refuses to commit to appointing ethics adviser" Guardian 23 August 2022
120 HC Deb 26 October 2022, c302
121 HM Government Independent Adviser on Ministers' Interests - Terms of Reference May 2022
122 Q299 (Sir Philip Mawer)
123 Q37 (Lord Geidt)
124 Q37 (Lord Geidt)
125 Cabinet Office Ministerial Code August 2019, para.7.4
126 Cabinet Office Ministerial Code August 2019, para.7.5

80. ***Recent events have demonstrated the impact of the perceived lack of independence and authority of the Independent Adviser on Ministers' Interests on public confidence in the integrity of the conduct of Ministers. In addition to advising on mitigating Ministers' conflicts of interest, the Independent Adviser plays a crucial investigatory role when Ministers are suspected of having breached the Ministerial Code. To this end, former Prime Minister Boris Johnson was required to strengthen the independence of the role. Following the equivocation of the previous Prime Minister, we welcome that the Government has now confirmed that it plans to appoint a new Independent Adviser.***

81. ***Following the resignation of Rt. Hon. Suella Braverman MP as Home Secretary for leaking restricted material and her subsequent reappointment only a few days later, the Government has said the new Independent Adviser will not investigate matters surrounding her resignation as they took place under the previous Prime Minister. Determining what a new Independent Adviser can or cannot investigate would appear to call into question whether the apparent authority of the Independent Adviser to initiate their own inquiries, which we discuss in this chapter, is as extensive as it appears. It would also suggest that the inquiry into allegations of racism made by former Transport Minister Nusrat Ghani MP against a ministerial colleague that Lord Geidt had not completed when he resigned also will not be concluded as it too took place under a different Prime Minister. This situation is unsatisfactory. Primary legislation should be introduced at the earliest opportunity to establish the Independent Adviser as a statutory position to end the uncertainty about whether future appointments will be made at all. This should not, however, delay the appointment. We expect the new Independent Adviser to retain the greater powers and that they will complete any legacy inquiries they inherit.***

Appointment

82. When recommending the creation of the post, the CSPL made specific recommendations designed to increase the independence of the role. These included:

- A fixed, non-renewable term; and
- Recruitment through open competition, chaired by the First Civil Service Commissioner and conforming to the Commissioner for Public Appointment's principles of best practice.[127]

83. Neither of these recommendations were adopted. The appointment is a personal appointment of the Prime Minister and, as such, the appointment process is entirely at the Prime Minister's discretion. Tenure was open-ended—Sir Alex Allan held the role for almost a decade—but the Independent Adviser can be dismissed by the Prime Minister at any time. In contrast, Lord Geidt was appointed for a fixed, five-year term,[128] though he explained to the Committee that his appointment was not the result of an open competition: his name was to have been 'alighted upon' in Downing Street, after which he was asked if he would be willing to take on the role.[129] Sir Alex and Sir Philip both appear to have been 'alighted upon' in a similar way. Both told us that they had been approached

127 CSPL Defining the Boundaries within the Executive: Ministers, Special Advisers and the permanent Civil Service Cm 5775 April 2003, paras 5.30–5.31

128 Prime Minister to Lord Evans, 28 April 2021

129 PACAC Oral evidence: Post appointment hearing: The Independent Adviser on Ministers' Interests HC 40 13 May 2021, Q2 (Lord Geidt); Q263 (Sir Alex Allan); Q267 (Sir Philip Mawer)

by the then Head of the Propriety and Ethics Team in the Cabinet Office about their willingness to undertake the role.[130]

84. Successive governments have rejected calls for the recruitment process for the Independent Adviser to be formalised. Sir John Major suggested that the Privy Council should be involved in drawing up a shortlist of appointable candidates from which the Prime Minister would choose.[131] The CSPL reiterated its initial recommendation for open recruitment for the post in its 2021 report. The Independent Adviser should, it argues, be recruited through the Commissioner for Public Appointments' process for Significant Appointments but, reflecting the importance of the role, with the added requirement that the recruitment panel have a majority of independent members.[132]

85. Successive Governments have maintained that the role of the Independent Adviser is simply to advise the Prime Minister and, as such, should remain a personal appointment. Responding to our predecessor Committee's report following Sir Alex Allan's appointment in 2011, the Government wrote that:

> The Government remains of the view that the role of the Independent Adviser should be a personal appointment made by the Prime Minister of the day. A number of qualities are required for the job, including expertise and experience and a relationship of trust and confidence between the Adviser and Ministers and their permanent secretaries. Sir Alex Allan was judged to have the experience, and the necessary skills and judgement to make him ideally suited for the role.[133]

This line has been maintained since. It has been the basis on which the Government has resisted efforts of this Committee and its predecessors to hold pre-appointment hearings with the new Independent Advisers. Independent Advisers have appeared before the Committee but only after they have commenced in their role.[134]

86. The need for the Independent Adviser to have the trust of the Prime Minister was emphasised and used to justify the personal appointment. Yet while the role has been advisory—the Independent Adviser can only advise the Prime Minister that the Ministerial Code has or has not been breached—it is clearly very different from other ministerial adviser roles. As the title of the post suggests, it is supposed to be "Independent". In practice, it would seem there has been quite limited interaction between holder of the role and Prime Ministers. They have, for the most part, worked through the Propriety and Ethics Team in the Cabinet Office.[135] Moreover, in overseeing the application of the Ministerial Code, the Independent Adviser is operating a quasi-regulatory function that is not analogous with that of other advisers who would be, more understandably, personal appointments. The nature of the appointments to date suggests that successive governments have tacitly

130 Q263 (Sir Alex Allan); Q267 (Sir Philip Mawer)
131 Q632 (Sir John Major)
132 CSPL Upholding Standards in Public Life November 2021, paras 5.21–5.22
133 Public Administration Select Committee The Prime Minister's Adviser on Ministers' Interests: independent or not? Government Response to the Committee's Twenty Second Report of Session 2010–12 5th Special Report of Session 2012–13, HC 976, p.4
134 Public Administration Select Committee Investigating the conduct of ministers 7th Report of Session 2007–08 HC 381; Public Administration Select Committee The Prime Minister's adviser on Ministers' interests: independent or not? 22nd Report of Session 2010–12 HC 1761; PACAC Oral evidence: Post appointment hearing: The Independent Adviser on Ministers' Interest HC 40 13 May 2021
135 Q268 (Sir Philip Mawer)

understood this, with appointees drawn from the Civil Service or other areas of public life where propriety has been fundamental to their role. The role requires trust in the integrity of the holder, not that they may 'have the Prime Minister's back'.

87. ***Concerns about the process for appointing the Independent Adviser are longstanding. The independence and integrity of the postholder are fundamental to their ability to carry out the role. As with the other standards watchdogs, the power of the Prime Minister to appoint the Independent Adviser should be balanced with a robust and transparent appointment process that allows the candidate to demonstrate their qualities for the role rather than their name being 'alighted upon', as is currently the case. The Independent Adviser should be subject to the Commissioner for Public Appointments process applicable to Significant Appointments. In addition, in accordance with our recommendation in this report concerning revisions to that process, the Independent Adviser's appointment should be subject to a pre-appointment hearing with the relevant Select Committee and should require its endorsement.***

The Initiation of Inquiries

88. The remit of the Independent Adviser has been modified since it was first established, notably when Sir Philip Mawer was appointed. At this point, the Independent Adviser's investigatory remit was extended to include all breaches of the Ministerial Code and not just those relating to private interests.[136] Following Sir Alex Allan's resignation, CSPL Chair Lord Evans wrote to the then Prime Minister ahead of the appointment of a new Independent Adviser suggesting reform of the role.[137] In particular, he recommended that the Independent Adviser be empowered to initiate their own inquiries into alleged or suspected breaches of the Ministerial Code (or indeed to reject calls to do so), rather than waiting for instruction from the Prime Minister. The letter also recommended that the Independent Adviser should be able to publish a summary of their decision on whether a Code breach has occurred. The decision on any sanction resulting from such a breach would remain with the Prime Minister as the "line manager" for Ministers. Both the two former Independent Advisers we heard from also supported the idea of empowering the Independent Adviser to initiate their own inquiries without waiting for Prime Ministerial instruction.[138] Former Cabinet Secretary Lord Sedwill made similar arguments to the Committee after stepping down from his role.[139]

89. Despite its apparent popularity as a means of improving the integrity of the role, the then Prime Minister rejected the measure. It would, he argued, be an unconstitutional encroachment on Prime Ministerial responsibility for the composition of the Government:

> I can see that it is in the public interest for the Adviser to have an active role in considering if a matter should be investigated and providing confidential advice about this to me. The constitutional position of the Prime Minister, as having sole responsibility for the overall organisation of the Executive and recommending the appointment of Ministers, means that I cannot and would not wish to abrogate the ultimate responsibility for deciding on an investigation into allegations concerning ministerial misconduct.

136 PASC Investigating the conduct of ministers 7th Report of Session 2007–08, HC 381, para.13
137 Lord Evans to the Prime Minister 17 April 2021
138 PACAC Oral evidence: Propriety of governance in light of Greensill HC 59 15 March 2022, Q273, 284, 287, Q289
139 PACAC Oral evidence: The work of the Cabinet Office HC 118 17 November 2020, Q486

> That ultimate responsibility is quite properly mine alone and, as an elected politician, one which I am ultimately responsible.[140]

90. Instead, Lord Geidt was given an "active role" in advising the Prime Minister that a matter might be worthy of investigation by the Independent Adviser. Whilst seemingly only the most incremental change, it did appear to represent a genuine difference. Former Independent Adviser Sir Alex Allan explained that he had had virtually no interaction with the two Prime Ministers that he served about the initiation of investigations into Code breaches, whilst his predecessor Sir Philip Mawer explained that he felt "significantly constrained" in advising on the matter. Yet both said they encountered issues that they felt they should have been asked to investigate but were not instructed to do so.[141] In his Annual Report, Lord Geidt made clear that the Prime Minister had at no point rejected his advice that an investigation into a breach be launched.[142] Nonetheless, the Terms of Reference for the post were further strengthened in May 2022, with the Independent Adviser apparently given the *de facto* ability to initiate investigations. Before doing so, the Prime Minister must still consent, but the Terms of Reference state that consent will normally be given.[143] Where consent is withheld on public interest grounds, the Independent Adviser can require that the grounds for doing so be made public.

91. This seems to represent a significant strengthening of the role. CSPL Chair Lord Evans remained concerned that the Independent Adviser's power to initiate inquiries still depended on the Prime Minister's consent.[144] Yet, as far as Lord Geidt was concerned at the time, the change to the Terms of Reference constituted the *de facto* authority to initiate investigations and as such was a significant step forward.[145] He explained that

> The Prime Minister's role is effectively not to stand as a gatekeeper—a standing gatekeeper, as it were—on my decisions to initiate.[146]

Consent might be withheld on grounds such as national security or legal privilege.[147] But the accompanying ability of the Independent Adviser to publish that consent had been withheld should prove a safeguard against a Prime Minister doing so on spurious grounds.[148]

92. ***We welcome that the Terms of Reference for the Independent Adviser now effectively include the authority to initiate inquiries. We would expect the requirement that Prime Ministers' consent be given beforehand to be used in extremely limited cases, such as where matters of national security or legal privilege are involved. Further to our recommendation above, we expect the next Independent Adviser to retain this power in the Terms of Reference applicable to their appointment.***

140 Prime Minister to Lord Evans, 28 April 2021
141 PACAC Oral evidence: Propriety of governance in light of Greensill HC 59 15 March 2022, Q284, Q287
142 Independent Adviser on Ministers' Interests Annual Report 2021–2022 May 2022, para. 29
143 HM Government Independent Adviser on Ministers' Interests - Terms of Reference May 2022, para. 2.2
144 Chair of CSPL to Lord True 30 May 2022
145 PACAC Oral evidence: The Independent Adviser on Ministers' Interests HC 40 14 June 2022 Q53 (Lord Geidt)
146 PACAC Oral evidence: The Independent Adviser on Ministers' Interests HC 40 14 June 2022 Q54 (Lord Geidt)
147 PACAC Oral evidence: The Independent Adviser on Ministers' Interests HC 40 14 June 2022 Q54 (Lord Geidt)
148 PACAC Oral evidence: The Independent Adviser on Ministers' Interests HC 40 14 June 2022 Q55 (Lord Geidt

Sanctions

93. Though there have long been calls for the Independent Adviser to have the authority to launch their own investigations without waiting for instructions from the Prime Minister, there has been a broader consensus that, given the Prime Minister's responsibility for the composition of the Government, they should retain responsibility for sanctioning any Minister found to have breached the Code: "a situation where any independent regulator of the Ministerial Code would effectively have the power to fire a minister would be unconstitutional".[149] To go against this consensus would constitute a step towards a very different constitutional arrangement from that which the United Kingdom has had until now.

94. If any breach of the Code or, in some cases, even the suspicion of a breach, is treated as a resignation matter, this is academic. However, we also heard that it is not sensible that all Code breaches, no matter how minor or inadvertent, should require resignation. Sir John Major told the Committee that "[e]very breach of the code is not necessarily a capital offence".[150] The CSPL recommended that a system of graduated sanctions be introduced.[151] The Government has adopted this recommendation and the Ministerial Code has been updated to make explicit that not all breaches thereof automatically require resignation.[152] The Ministerial Code states that the Prime Minister may ask the Independent Adviser for advice regarding the appropriate sanction but makes clear that any decision on sanction is ultimately the Prime Minister's responsibility.[153]

95. ***If the introduction of graduated sanctions to the Ministerial Code is to be effective, it cannot be used as a means to avoid significant sanction for serious breaches. The Government should outline the range of sanctions and indicative examples of breaches to which they might apply. Without this, the suspicion is that the only determinant of the level of sanction will be political expediency. The reappointment of the Home Secretary sets a dangerous precedent. The leaking of restricted material is worthy of significant sanction under the new graduated sanctions regime introduced in May, including resignation and a significant period out of office. A subsequent change in Prime Minister should not wipe the slate clean and allow for a rehabilitation and a return to ministerial office in a shorter timeframe. To allow this to take place does not inspire confidence in the integrity of government nor offer much incentive to proper conduct in future.***

The Ministerial Code as applied to the Prime Minister

96. Both the Cabinet Secretary and Lord Geidt alluded to the complexity surrounding the Prime Minister as the subject of the Ministerial Code. Sir John Major described the position of the Prime Minister as "a lacuna":

> The Prime Minister should be responsible for his own conduct, because he is judge and jury of it, but that leaves a problem when the judge is in the dock. It is a difficult proposition to solve.[154]

149 CSPL Upholding Standards in Public Life November 2021, para. 3.28
150 Q645 (Sir John Major)
151 CSPL Upholding Standards in Public Life November 2021, para. 3.23
152 Cabinet Office Statement of government policy: standards in public life 27 May 2022
153 Sir John Major recommended that any advice from the Independent Adviser about appropriate sanctions for Code breaches should remain private. Q645
154 Q641 (Sir John Major)

97. Lord Geidt intimated that investigations by the Independent Adviser into possible Code breaches by the Prime Minister might prove more problematic. At one level, the Prime Minister is subject to the Ministerial Code just as other Ministers are.[155] Yet, in his Annual Report, Lord Geidt said:

> In the present circumstances, I have attempted to avoid the Independent Adviser offering advice to a Prime Minister about a Prime Minister's obligations under his own Ministerial Code. If a Prime Minister's judgement is that there is nothing to investigate or no case to answer, he would be bound to reject any such advice, thus forcing the resignation of the Independent Adviser.[156]

98. The ability of the Independent Adviser to initiate inquiries would, however, appear to have at least partially resolved this: whether an alleged breach of the Code by a Prime Minister is worthy of an inquiry is a matter for the Independent Adviser. Were a Prime Minister to attempt to withhold their consent for such an inquiry, the Independent Adviser could publicise that they had done so, with the accompanying reputational damage that would likely result. The power to sanction breaches of the Ministerial Code remains with the Prime Minister which means that, were the Independent Adviser to conclude that the Prime Minister had breached the Code, they would be responsible for sanctioning themselves. The pressure brought to bear by Cabinet, by Parliament and the potential electoral damage from the fall-out of such a situation will unavoidably be the true determinant of the level of sanction.

99. **The position of the Prime Minister in relation to their compliance with the Ministerial Code is a complex one. Whilst the Independent Adviser can initiate investigations into any suspected breach of the Code and should be able to issue private advice on appropriate sanction, it is ultimately for the Prime Minister to decide the response to any breach of the Code they may have made.**

155 Prime Minister to Independent Adviser on Ministers' Interests 31May 2022
156 Independent Adviser on Ministers' Interests Annual Report 2021–2022 May 2022, p.3

5 Conclusion

An ethics regulator?

100. The CSPL has argued that all the bodies responsible for regulating standards and ethical behaviour in public life should be placed on a statutory basis as a matter of principle.[157] We have only considered some of those bodies in depth in this report but consider there to be a strong case for each to be based in primary legislation. Legislating for them would, of course, be an opportunity to regularise aspects of their roles. This should include the appointments process, with each becoming subject to the Commissioner for Public Appointments' Significant Appointments process, including a pre-appointment hearing with a Select Committee. It should also include clarifying their role in the revision of the applicable Codes and the application of the rules that they oversee. We recognise that, in each of the cases we have considered, the content of those lies with the Government. However, the ethics watchdogs are usually consulted about significant changes to them, and putting those roles on a statutory basis would be an opportunity to formalise this in legislation.

101. Given this, we considered whether the ethics watchdogs should be legislated for in isolation or consolidated into a single statutory regulator.[158] Several suggested that the roles share many challenges. ACOBA Chair Lord Pickles said "it is very surprising that we [i.e. the watchdogs] are facing very similar kind of problems", for example.[159] However, we found limited support for a move towards a single, consolidated ethics regulator. Whilst sharing watchdog roles and bound by the Nolan Principles underpinning that, the purpose of each of the Nolan bodies is distinct and the relationships involved differ. Former Independent Adviser Sir Philip Mawer was of the view that:

> There are questions around the breadth of the remit, the separation of powers, and the one commission combining all the tasks, as far as I can see, of advice, investigation and oversight. Those are different functions. Advice and investigation often, and should, go together but oversight is a separate question.[160]

102. In addition to the different roles, CSPL Chair Lord Evans suggested that a single consolidated ethics regulator that combines the other ethics watchdogs would potentially be a hugely powerful body. Were such a body a statutory one, its head would in effect be required to act as the referee for all aspects of the conduct of Government. Maintaining the independence required to play that role whilst ensuring proper accountability for its conduct presents some "really big challenges":

> It is not impossible that you could wire this in a way that worked, but it presents some really big challenges and you would have to be extremely confident in whoever it was who was this hugely powerful and saintly figure who could oversee everything without any question of his or her own integrity being in play.[161]

157 CSPL Upholding Standards in Public Life November 2021, para.2.35

158 The Opposition has, for example, proposed such a measure. See Angela Rayner's speech setting out Labour's plans to clean up politics 29 November 2021

159 Q406 (Lord Pickles)

160 Q304 (Sir Philip Mawer)

161 Q253 (Sir Peter Riddell)

103. **The landscape of standards regulation is a patchwork, with individual watchdogs with different powers, legal basis, and appointments processes.**[162] **Placing on a statutory basis those that are not already is an opportunity to regularise them to some extent. However, whilst all have responsibility for overseeing standards, each has a distinct role and involves very different relationships.**

104. ***The various ethics regulators should continue to be separate and should not be consolidated into a single ethics regulator. Nonetheless, coordination is to be encouraged. Current informal coordination could be firmed up by establishing a committee comprising the heads of the various bodies. Placing them on a statutory basis provides an opportunity to regularise aspects of their operation, including the means of appointment for their heads and the status and application of the Codes and Guidance that they oversee, but it should recognise that one size does not fit all and the differences in their functions should be maintained.***

Values

105. Sir John Major emphasised the importance that personal conduct and self-restraint on the part of those in public life play in guiding actions. Not every aspect of public life can be made the subject of a code or a law, and individuals have to regulate their own behaviour to some extent for the system to work:

> It is difficult to see how you could have a parliamentary system that governed every action under statute law. Frankly, it could not be done. We are always going to have to live with self-restraint. That requires action by the individual people themselves.[163]

106. The historian Lord Hennessy popularised the notion of the "good chap theory of government" to ensure that those in office comply with the uncodified agglomeration of convention, guidance, codes of conduct, and operational culture or the "Whitehall equivalent to the 'Code of the Woosters'":[164]

> a good chap knows what a good chap has to do and doesn't need to be told.[165]

107. There are, of course, institutional checks, notably the accountability of Ministers to Parliament and the electoral imperative: the ultimate sanction for those seen to have failed to meet standards of propriety in office is via the ballot box. However, the prospect of periodic electoral defeat and the inherent decency of those in public office are alone not necessarily sufficient to ensure standards of propriety are consistently complied with. But neither should the need for a strengthened system for regulating standards in public life diminish the importance of personal restraint and responsibility. As Lord Evans said:

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162 See CSPL Upholding Standards in Public Life November 2021, p.43–44 for a table that illustrates this patchwork nature of standards regulation in the UK.

163 Q619 (Sir John Major)

164 Peter Hennessy "'Harvesting the Cupboards': Why Britain Has Produced No Administrative Theory or Ideology in the Twentieth Century" *Transactions of the Royal Historical Society* Vol. 4 (1994), p.205 He attributes the phrase to Clive Priestly, a former Chief of Staff to Margaret Thatcher.

165 Peter Hennessy "'Harvesting the Cupboards': Why Britain Has Produced No Administrative Theory or Ideology in the Twentieth Century" *Transactions of the Royal Historical Society* Vol. 4 (1994), p.205.

> I absolutely do not think that one can rely solely on moral exhortation and then hope for the best. I do think that there is a cultural and a behavioural aspect…But at the end of the day, you do need processes and compliance mechanisms as well as a moral compass, but they are both important.[166]

108. **The purpose of a stronger means of enforcing standards should not be seen by those in public life as a substitute for values, nor codes of conduct as the only guide to acceptable behaviour for those in public life. Individuals in public life must recognise the importance of personal restraint and responsibility and act to regulate their own behaviour accordingly.**

166 Q237 (Lord Evans)

Conclusions and recommendations

Regulating the 'revolving door'

1. ***The Cabinet Secretary denied that there is a lack of resource dedicated to compliance issues in Government but admitted that there is a "brigading issue" of making them work together. We accept that Nigel Boardman's proposal for a Compliance Function might create difficulties by cutting across current compliance operations located in existing Functions. However, other means of addressing the "brigading issue" are required. We were told work has been conducted to address this. In its response to this report, the Government should include an update on this and its next steps.*** (Paragraph 20)

2. **The threat of legal action and the resulting sanction for breaching the Business Appointment Rules would, in our view, be a sufficient deterrent to ensure that such action would be needed only rarely.** (Paragraph 26)

3. ***The Government has told us that it is exploring contractual mechanisms to ensure that the Business Appointment Rules are legally enforceable. We support this. In its response to this report, the Government should outline the form that this will take and the sanctions which will apply. It should also outline the timeline for implementation.*** (Paragraph 27)

4. ***Enforcement and the ability to sanction those that breach the Rules is fundamental to ensuring a regulatory regime that commands public confidence. This could be achieved by the Government pursuing those who do not comply with their obligations under the Business Appointment Rules through the courts.*** (Paragraph 28)

5. ***Putting ACOBA on a statutory basis is not a prerequisite for the Rules to be legally enforced and should not delay it being put into operation. Nonetheless, to reflect the importance of its role and to clarify the status of it and the Rules, we recommend that ACOBA should be placed on a statutory basis as soon as possible.*** (Paragraph 29)

6. ***The Government should implement the CSPL's recommendation to extend the scope of the Business Appointment Rules to prohibit employment in sectors where the applicant has had "significant and direct" responsibility for policy, regulation or the award of contracts rather than only with firms they have had a relationship with. Such a measure should be applied to Ministers as well as SpAds and Officials at SCS3 and SCS4 grades. Moreover, the implications of this should be made more prominent to prospective hires prior to commencement.*** (Paragraph 35)

7. **We do not think that a system based solely around voluntary compliance with general principles is sufficient to maintain public confidence in the integrity of the system regulating the 'revolving door' and have recommended that the Business Appointment Rules are legally enforced and that their content is strengthened. Nonetheless, the need for those subject to the Rules to consider narrow compliance with them when considering future employment**

opportunities, alongside exercising judgement about what is appropriate, is evident. Neither is such judgement limited to the two-year window in which the Business Appointment Rules apply. (Paragraph 38)

8. **Those who seek only to comply with the Rules sensu stricto and do not apply their own "smell test" when considering future opportunities will continue to risk significant personal reputational damage.** (Paragraph 39)

Appointments

9. ***The Commissioner for Public Appointments should be placed on a statutory basis in an Act of Parliament at the earliest opportunity. The legislation should make clear that the Commissioner's role is to ensure that public appointments made by Ministers are in compliance with the Governance Code. It should also detail the process by which the Commissioner is appointed, the term of office, and their role in revisions to the Governance Code for Public Appointments.*** (Paragraph 55)

10. ***The system of public appointments is predicated on the principle that such appointments are the responsibility of the relevant Minister and it is they that should be held accountable for them. On this basis, we endorse the recommendation of the Committee on Standards in Public Life that Ministers wishing to appoint a candidate deemed unappointable for a role or, if the competition is being rerun, who was previously deemed unappointable, should have to appear before the relevant Select Committee to explain their decision and to do so before the appointment is confirmed. The Governance Code should be updated accordingly.*** (Paragraph 59)

11. ***Rather than only raising concerns, Senior Independent Panel Members should report to the Commissioner for Public Appointments on the conduct of all significant public appointments processes. The Governance Code should be updated accordingly.*** (Paragraph 61)

12. ***We have seen the extensive scope for Ministerial discretion in the public appointments process and that, in addition to the self-restraint of Ministers, the role of the Commissioner has been vital in ensuring that the principles in Governance Code have been adhered to. The Chairs of the other ethics watchdogs play a similar role in safeguarding the integrity of public life. The independence required for these roles is analogous to that of the Chair of the Office of Budget Responsibility and should be treated as such. Given this, Ministers' nominated candidates for these roles should require the endorsement of the relevant Select Committee. Candidates that are not endorsed by the relevant Select Committee for these posts should not be appointed.*** (Paragraph 63)

13. **This Committee, alongside other Select Committees, has tried to accommodate the Government when pre-appointment hearings have needed to be completed urgently, scheduling them at short notice and reporting almost immediately. However, this has now become routine. Our predecessor Committee was assured that this would be addressed, yet no improvement has been evident. This has given rise to the assumption that the Government has intended to press on with the appointment, regardless of the view of Select Committees.** (Paragraph 65)

14. ***Too often, the Government has appeared to approach the pre-appointments process as a tick box exercise rather than an important component in the public appointments process. The Committee's patience in this respect is not limitless. We are aware that this frustration is shared by other Select Committees. When making appointments that require a pre-appointment hearing, sufficient time must be allowed for this stage to be completed.*** (Paragraph 66)

15. ***To improve transparency, Cabinet Secretary Simon Case told the Committee that he considered the suggestion that a register of direct appointments be maintained and published as "an obvious thing to do".[167] We agree and recommend that departments begin to compile and publish such registers immediately and that they are kept updated contemporaneously.*** (Paragraph 71)

16. ***The letters of engagement issued to direct appointments are tantamount to a contract of employment. They state the purpose for which the appointment is being made, the term length, and their accountability. These letters should be shared with the Chair of the relevant Select Committee when the appointment is made.*** (Paragraph 73)

The Ministerial Code

17. ***Recent events have demonstrated the impact of the perceived lack of independence and authority of the Independent Adviser on Ministers' Interests on public confidence in the integrity of the conduct of Ministers. In addition to advising on mitigating Ministers' conflicts of interest, the Independent Adviser plays a crucial investigatory role when Ministers are suspected of having breached the Ministerial Code. To this end, former Prime Minister Boris Johnson was required to strengthen the independence of the role. Following the equivocation of the previous Prime Minister, we welcome that the Government has now confirmed that it plans to appoint a new Independent Adviser.*** (Paragraph 80)

18. ***Following the resignation of Rt. Hon. Suella Braverman MP as Home Secretary for leaking restricted material and her subsequent reappointment only a few days later, the Government has said the new Independent Adviser will not investigate matters surrounding her resignation as they took place under the previous Prime Minister. Determining what a new Independent Adviser can or cannot investigate would appear to call into question whether the apparent authority of the Independent Adviser to initiate their own inquiries, which we discuss in this chapter, is as extensive as it appears. It would also suggest that the inquiry into allegations of racism made by former Transport Minister Nusrat Ghani MP against a ministerial colleague that Lord Geidt had not completed when he resigned also will not be concluded as it too took place under a different Prime Minister. This situation is unsatisfactory. Primary legislation should be introduced at the earliest opportunity to establish the Independent Adviser as a statutory position to end the uncertainty about whether future appointments will be made at all. This should not, however, delay the appointment. We expect the new Independent Adviser to retain the greater powers and that they will complete any legacy inquiries they inherit.*** (Paragraph 81)

167 Q528 (Simon Case)

19. ***Concerns about the process for appointing the Independent Adviser are longstanding. The independence and integrity of the postholder are fundamental to their ability to carry out the role. As with the other standards watchdogs, the power of the Prime Minister to appoint the Independent Adviser should be balanced with a robust and transparent appointment process that allows the candidate to demonstrate their qualities for the role rather than their name being 'alighted upon', as is currently the case. The Independent Adviser should be subject to the Commissioner for Public Appointments process applicable to Significant Appointments. In addition, in accordance with our recommendation in this report concerning revisions to that process, the Independent Adviser's appointment should be subject to a pre-appointment hearing with the relevant Select Committee and should require its endorsement.*** (Paragraph 87)

20. ***We welcome that the Terms of Reference for the Independent Adviser now effectively include the authority to initiate inquiries. We would expect the requirement that Prime Ministers' consent be given beforehand to be used in extremely limited cases, such as where matters of national security or legal privilege are involved. Further to our recommendation above, we expect the next Independent Adviser to retain this power in the Terms of Reference applicable to their appointment.*** (Paragraph 92)

21. ***If the introduction of graduated sanctions to the Ministerial Code is to be effective, it cannot be used as a means to avoid significant sanction for serious breaches. The Government should outline the range of sanctions and indicative examples of breaches to which they might apply. Without this, the suspicion is that the only determinant of the level of sanction will be political expediency. The reappointment of the Home Secretary sets a dangerous precedent. The leaking of restricted material is worthy of significant sanction under the new graduated sanctions regime introduced in May, including resignation and a significant period out of office. A subsequent change in Prime Minister should not wipe the slate clean and allow for a rehabilitation and a return to ministerial office in a shorter timeframe. To allow this to take place does not inspire confidence in the integrity of government nor offer much incentive to proper conduct in future.*** (Paragraph 95)

22. **The position of the Prime Minister in relation to their compliance with the Ministerial Code is a complex one. Whilst the Independent Adviser can initiate investigations into any suspected breach of the Code and should be able to issue private advice on appropriate sanction, it is ultimately for the Prime Minister to decide the response to any breach of the Code they may have made.** (Paragraph 99)

Conclusion

23. **The landscape of standards regulation is a patchwork, with individual watchdogs with different powers, legal basis, and appointments processes.[168] Placing on a statutory basis those that are not already is an opportunity to regularise them to some extent. However, whilst all have responsibility for overseeing standards,**

168 See CSPL Upholding Standards in Public Life November 2021, p.43–44 for a table that illustrates this patchwork nature of standards regulation in the UK.

each has a distinct role and involves very different relationships. (Paragraph 103)

24. ***The various ethics regulators should continue to be separate and should not be consolidated into a single ethics regulator. Nonetheless, coordination is to be encouraged. Current informal coordination could be firmed up by establishing a committee comprising the heads of the various bodies. Placing them on a statutory basis provides an opportunity to regularise aspects of their operation, including the means of appointment for their heads and the status and application of the Codes and Guidance that they oversee, but it should recognise that one size does not fit all and the differences in their functions should be maintained.*** (Paragraph 104)

25. **The purpose of a stronger means of enforcing standards should not be seen by those in public life as a substitute for values, nor codes of conduct as the only guide to acceptable behaviour for those in public life. Individuals in public life must recognise the importance of personal restraint and responsibility and act to regulate their own behaviour accordingly.** (Paragraph 108)

Formal minutes

Tuesday 29 November

Members present

Mr William Wragg, in the Chair

Ronnie Cowan

Rt Hon John McDonnell

Damien Moore

Lloyd Russell-Moyle

Karin Smyth

Draft Report (*Propriety of Governance in Light of Greensill*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 108 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order 134.

[Adjourned till Tuesday 6 December 2022 at 09.30am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Tuesday 8 June 2021

The Rt Hon Lord Maude of Horsham, former Minister, Cabinet Office; **Ian Watmore**, former Permanent Secretary, Cabinet Office; **Sir John Manzoni KCB**, former Permanent Secretary, Cabinet Office; **Bill Crothers**, former Government Chief Commercial Officer, Cabinet Office, former Director, Greensill Capital Q1–123

Tuesday 2 November 2021

Nigel Boardman, Chair of inquiry into the Greensill lobbying scandal Q124–211

Tuesday 11 January 2022

The Lord Evans of Weardale KCB DL, Chair, Committee on Standards in Public Life Q212–257

Tuesday 15 March 2022

Sir Alex Allan, Former Independent Advisor on Ministerial Standards, House of Commons; **Sir Philip Mawer**, Former Parliamentary Commissioner for Standards, House of Commons Q258–306

Tuesday 17 May 2022

Rt Hon Sir Peter Riddell CBE, Former Commissioner for Public Appointments, Cabinet Office Q307–353

Thursday 9 June 2022

Rt Hon Lord Pickles, Chair, Advisory Committee on Business Appointments Q354–406

Tuesday 28 June 2022

Simon Case CVO, Cabinet Secretary, Cabinet Office; **Darren Tierney**, Director General, Propriety and Ethics, Cabinet Office Q407–617

Tuesday 12 July 2022

The Rt Hon Sir John Major KG CH, Prime Minister of the United Kingdom of Great Britain and Northern Ireland (1990–1997) Q618–667

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

PGG numbers are generated by the evidence processing system and so may not be complete.

1 38 Degrees (PGG0016)

2 ACOBA (PGG0007)

3 Beal, Mr Michael (Retired, None) (PGG0002)

4 Campaign for Freedom of Information (PGG0020)

5 Chartered Institute of Public Relations (CIPR) (PGG0005)

6 Coalition, UK Anti-Corruption (PGG0017)

7 Corruption, Spotlight on (PGG0018)

8 Cullen, Dr John J.A. (Research electrical engineer (retired), n/a) (PGG0008)

9 Fisher, Professor Justin (Professor of Political Science, Brunel University London) (PGG0004)

10 Heywood, Professor Paul (Sir Francis Hill Chair of European Politics, University of Nottingham) (PGG0010)

11 Institute for Government (PGG0019)

12 PRCA (PGG0012)

13 Patel, Jag (PGG0003)

14 Protect (PGG0006)

15 Trades Union Congress (TUC) (PGG0013)

16 Transparency International UK (PGG0014)

17 Wallace, Ms Emily (Partner, Inflect Partners); and Mr Michael Burrell (Independent Public Affairs Consultant, Independent Public Affairs Consultant) (PGG0015)

18 Worthy, Dr Ben (Senior Lecturer, Birkbeck) (PGG0011)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2022–23

Number	Title	Reference
1st	Parliamentary and Health Service Ombudsman Scrutiny 2020–21	HC 213
2nd	The Work of the Electoral Commission	HC 462
3rd	Governing England	HC 463
1st Special	Coronavirus Act 2020 Two Years On: Government response to the Committee's Seventh Report of Session 2021–22	HC 211
2nd Special	The Cabinet Office Freedom of Information Clearing House: Government Response to the Committee's Ninth Report of Session 2021–22	HC 576
3rd Special	Parliamentary and Health Service Ombudsman Scrutiny 2020–21: PHSO and Government responses to the Committee's First Report	HC 616

Session 2021–22

Number	Title	Reference
1st	The role and status of the Prime Minister's Office	HC 67
2nd	Covid-Status Certification	HC 42
3rd	Propriety of Governance in Light of Greensill: An Interim Report	HC 59
4th	Appointment of William Shawcross as Commissioner for Public Appointments	HC 662
5th	The Elections Bill	HC 597
6th	The appointment of Rt Hon the Baroness Stuart of Edgbaston as First Civil Service Commissioner	HC 984
7th	Coronavirus Act 2020 Two Years On	HC 978
8th	The appointment of Sir Robert Chote as Chair of the UK Statistics Authority	HC 1162
9th	The Cabinet Office Freedom of Information Clearing House	HC 505
1st Special	Government transparency and accountability during Covid 19: The data underpinning decisions: Government's response to the Committee's Eighth Report of Session 2019–21	HC 234
2nd Special	Covid-Status Certification: Government Response to the Committee's Second Report	HC 670

Number	Title	Reference
3rd Special	The role and status of the Prime Minister's Office: Government Response to the Committee's First Report	HC 710
4th Special	The Elections Bill: Government Response to the Committee's Fifth Report	HC 1133

Session 2019–21

Number	Title	Reference
1st	Appointment of Rt Hon Lord Pickles as Chair of the Advisory Committee on Business Appointments	HC 168
2nd	Parliamentary and Health Service Ombudsman Scrutiny 2018–19	HC 117
3rd	Delivering the Government's infrastructure commitments through major projects	HC 125
4th	Parliamentary Scrutiny of the Government's handling of Covid-19	HC 377
5th	A Public Inquiry into the Government's response to the Covid-19 pandemic	HC 541
6th	The Fixed-term Parliaments Act 2011	HC 167
7th	Parliamentary and Health Service Ombudsman Scrutiny 2019–20	HC 843
8th	Government transparency and accountability during Covid 19: The data underpinning decisions	HC 803
1st Special	Electoral law: The Urgent Need for Review: Government Response to the Committee's First Report of Session 2019	HC 327
2nd Special	Parliamentary and Health Service Ombudsman Scrutiny 2018–19: Parliamentary and Health Service Ombudsman's response to the Committee's Second report	HC 822
3rd Special	Delivering the Government's infrastructure commitments through major projects: Government Response to the Committee's Third report	HC 853
4th Special	A Public Inquiry into the Government's response to the Covid-19 pandemic: Government's response to the Committee's Fifth report	HC 995
5th Special	Parliamentary Scrutiny of the Government's handling of Covid-19: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1078
6th Special	The Fixed-term Parliaments Act 2011: Government's response to the Committee's Sixth report of Session 2019–21	HC 1082
7th Special	Parliamentary and Health Service Ombudsman Scrutiny 2019–20: Government's and PHSO response to the Committee's Seventh Report of Session 2019–21	HC 1348