ibe Institute of
Business Ethics

**The Committee on Standards in Public Life: Standards Matter 2
Public Consultation Response
February 2021**

1. This response is on behalf of the Institute of Business Ethics. The IBE is a charity that exists to champion the highest standards of business behaviour based on the practical application of ethical values. Although our primary focus is influencing behaviours in the private sector, we have supporters in the public and third sector.

2. More information about the IBE can be found at www.ibe.org.uk.

Scope of our response

3. Many of the questions raised in the consultation are not areas on which we would purport to be authoritative. Accordingly, we have provided a narrative statement rather than seeking to answer each question. We have focussed on sharing our observations on cultures that celebrate and encourage high ethical standards in business and our experience of what is needed to achieve and maintain those standards.

The business case for high ethical standards

4. An organisational commitment to high ethical standards is a vital tool in embedding company purpose and delivering sustainable business improvements. The business case for high ethical standards is strong and the potential rewards are significant.

5. Ethics are a key driver in **building trust** (research by Edelman in their 2020 Trust Barometer shows that ethical standards are three times more powerful as a driver of trust than competence). Ethics offer a framework for ensuring **consistent decision making** when faced with difficult dilemmas where there is not an objectively 'right' answer. Ethics drive **loyalty and talent retention**, with employees increasingly wanting to work for organisations whose values they recognise and share. Organisations that promote the strong 'speak up' culture that is needed to embed ethical values see a lower incidence of fines and legal issues, and enjoy a built-in **early warning system** to alert senior leadership to things that are going wrong.

6. Although maintaining consistently high ethical standards in a business ultimately requires the individual commitment of everyone in the workforce, there is much that can be done by the board and senior leadership to set behavioural expectations and define ethical standards for the organisation.

7. The IBE's research has tracked the development of **codes of ethics**. These are now almost ubiquitous in leading companies and have developed well beyond their original remit as a tool to reinforce regulatory compliance. Organisations now realise that legal and regulatory compliance is not enough to build the trust of stakeholders and promote long term durability. Almost three quarters of the respondents to our survey now cite 'creating a shared and consistent corporate culture' as the main purpose of their code of ethics. This trend is also reflected in the prominence now given in all of the leading corporate governance codes to the obligation on boards to set values and shape culture.

Standards in public life

8. Despite the setbacks which continue to shake public confidence, it is clear that, over the longer term, standards in public life have improved and that the interventions that have been made to address the root causes of some of the most egregious problems (such as 'cash for questions') have been lasting and effective.

9. There can also be little doubt that, from their initial inception as the Nolan Principles, the Seven Principles in Public Life have played a vital role in influencing standards in and beyond public life, and that they continue to do so. They have proved to be astonishingly durable and of lasting value, providing consistent resonance through a period of increasing demands for transparency and greater accountability in public life.

10. They remain a relevant and powerful tool to encourage high standards everywhere.

Standards in business

11. The longer term trend of improving standards in public life has been matched with a similar improvement in public perceptions of ethical behaviour in business. The IBE's annual survey of attitudes to public behaviour in British business has charted a steady, long term annual **rise in levels of trust in business**.

12. However, as with standards in public life, improvement in business has not been linear, and the setbacks reflect in part the continued incidence and impact of higher profile ethical lapses in business. It is a constant frustration for the vast majority of businesses committed to operating with a strong social purpose and high standards that British business continues to be defined by the conduct of a small minority.

13. The growth of trust in business has been driven in part by the wide adoption by companies of **ethical values** (like 'integrity' and 'honesty') and their translation into codes of ethics or their equivalent to describe the standards of behaviour needed to achieve the desired target culture. This mirrors much of the work done in the public sector (for example, the translation of the Principles into the Code of Conduct for Board Members of Public Bodies).

The influence of the Principles

14. One of the great strengths of the Principles is that they have found broader resonance beyond public life as a benchmark for standards in the private sector. The Principles have been an enormously helpful reference point for companies and individual leaders to calibrate their own responsibilities and values.

15. Only the Principle of '**Selflessness**', with its implications of altruism, has struggled to translate effectively beyond public life. Yet, as we have highlighted in a blog for the Committee, that translation gap is narrowing as the global trend towards a re-evaluation of shareholder primacy has found traction and the pandemic has exposed just how interconnected the world is. The focus on ESG, non-financial reporting and the stakeholder considerations underpinning the new Section 172 reporting requirements (on which the IBE commented in a comprehensive report in 2020) have also helped to remind business leaders that their companies do not operate in isolation; companies are part of a complex stakeholder ecosystem, and maintaining a healthy and vibrant ecosystem is in everyone's interests.

16. The very significant and expanding **role of the private sector in the delivery of public services** has also forced the gap to close, with the government's confirmation that any organisation contracted to deliver public services on behalf of the taxpayer is subject to the Principles being a significant milestone. But companies that are engaging in the provision of public services can feel legitimately aggrieved if they are held to a standard which those commissioning their services are not, in practice, required to meet.

The impact of the pandemic and a concerning recent trend

17. The pandemic has brought its own challenges, with demands on the resilience of individuals at all levels in many organisations that are not sustainable. The constant change and innovation that has been needed demands shortcuts and compromises, adds to time pressure, amplifies fatigue and increases the risk of mistakes. Leaders who are tired and busy have **less time to listen** and even less time to follow up and feed back. Horizons and goals can become very **short term**.

18. It is of significant concern that, at a time when trust in government is needed to ensure widespread public support for the restrictions needed to contain the pandemic, and the vaccination and other public health efforts to emerge from it, there is evidence of a significant recent decline in public trust in government.

19. The results of the most recent Edelman Trust Barometer illustrate most vividly the **loss in trust in government** since the onset of the pandemic and raise significant questions in relation to standards in public life, particularly when combined with low levels of trust in traditional media. Public concerns about the relaxation of standards in public procurement, poor levels of transparency in public appointments and the limited accountability of influential advisers have been widely reported. Examples of limited accountability when there are failures to meet well established standards will continue to erode public confidence.

20. Whilst there is at least anecdotal evidence that the acknowledged successes of the UK vaccination programme may have provided a welcome boost to public confidence in government, the volatility in public trust in government is striking.

21. Yet at the same time there is very encouraging news for business, which Edelman's survey now identifies as the only consistently trusted institution. The IBE's **survey of British attitudes** to business reinforces that finding, showing that six in ten British people believe that business here behaves ethically, the second highest level since we started the survey in 2003.

Creating ethical cultures

22. The challenges of embedding ethical principles into the culture and operation of a public sector organisation are not fundamentally different to the private sector; the Principles are framed in a way which clearly makes them an ethical commitment for the individual and the Code of Conduct issued by the Cabinet Office for board members of public bodies brings to life how the Principles translate into expected standards of behaviour for office holders.

23. That consistent set of expectations for standards of behaviour of senior leaders, together with the ethical values of the particular public sector organisation ought to define and shape its culture and behavioural norms.

24. Yet **having ethical values and a code is not enough**; embedding principles like Integrity, Honesty and Openness requires a sustained commitment and **an organised programme** of training, communication and engagement. It requires a careful assessment of the ethical risks and a rolling programme of monitoring and assurance. It requires a culture that genuinely welcomes and encourages people at all levels to speak up when they see or hear something that isn't right, management that are actively listening, and processes to ensure that identified issues are properly addressed. Ethical values need to be embedded in all aspects of the organisation's operation, including recruitment and performance management.

25. Real-time learnings are incredibly valuable in times of challenge and change. In times of crisis and uncertainty, **speak up** plays a vital role in identifying the pressure points and where things may be starting to go wrong. Early warnings of problems allow issues to be dealt with quickly and effectively, before there is a serious impact.

26. The best leaders are actively listening, encouraging their teams to speak up in an atmosphere that is free from fear of retaliation, ensuring that concerns that are raised are properly followed through to resolution, and that the speak up loop is closed out by communicating the outcomes.

27. **Authentic leadership** from the board and senior management and through any layers of intermediate management is key. Most employees look to their immediate manager as a role model of the standards expected in the organisation and setting a consistent tone from above is key. The IBE recommends that codes of ethics include a section for managers explaining that not only does the code apply equally to them but that they have a crucial role in role modelling the standards that are set.

Having a robust system for maintaining standards

28. However granular the ethical standards, they are **not going to translate to a set of rules** which codify every aspect of workplace behaviour.

29. Ethical values, even when translated into a code, **do not provide all the answers.** Rather, they provide a framework for an individual to identify ethical issues and speak up when things don't feel right. Often, ethics programmes provide a decision making tool to support individuals starting to tackle ethical dilemmas, help them reach a sensible conclusion in a consistent way, and seek support where appropriate. Ultimately, bringing ethical values to life requires the personal commitment of every employee.

30. An ethics framework, in contrast to a regulatory framework, will **evolve constantly**. It ought to allow mistakes to be made provided that they are learned from. To be dynamic and learning, ethics programmes need to be **constantly communicated**, with setbacks and failures shared openly across the organisation.

31. An ethical framework that does not embrace everyone in the organisation and apply consistent standards of accountability will not be fully effective. Ethical standards need to be universal and **applied and managed consistently for all those in positions of influence** across the organisation, regardless of how that individual has gained office. If there are individuals in significant positions of influence whose appointment or standards in office are not subject to the same oversight and accountability as others, there is a risk that a culture of impunity will develop for those areas that are not covered and that confidence and trust in the system as a whole is undermined.

The ethics 'regulator'

32. Ethical standards **cannot be regulated in the conventional sense**. Although given a harder edge through codes of conduct, they fill the gap beyond law and regulation, where there is scope for different views and opinions, and where judgement is required. Ethical standards help establish institutional norms where, if expectations are not met, it is expected that a proportionate and appropriate response will be required.

33. In the most mature ethics programmes, the standards are set by the board but overseen by an independent ethics function. That function would make the determination of whether standards had been met or not, but the judgement as to what sanction might be appropriate would sit with line management

34. Ethics practitioners need the **protection of independence**. They must be adequately resourced. They are not auditors, so the starting point of any investigation must be a concern raised with them about a potential ethical lapse. Everyone in the organisation needs to have the confidence that they if they do raise such a concern, it will be promptly and properly investigated and that appropriate action will be taken.

35. Notwithstanding the fact that anonymous concerns are often harder to investigate, those speaking up need the ability to do so through a channel that is independent of line management and, if they so choose, on an anonymous basis, if fears about retaliation would otherwise discourage them from speaking up.

36. Ethics practitioners must have the **freedom to initiate an independent investigation**, including on the basis of a whistleblowing complaint, in order to get to the heart of the issue and need the ability to conduct that investigation and report out openly and transparently. It is essential that their investigations are free from any influence by those they are investigating.

37. Ultimately, ethics practitioners are **trusted advisers**. Although they play a vital role as promoters and ambassadors of high ethical standards, they do not set the standards for the organisation nor decide on any sanction for any breach of those standards. They do not have direct powers of enforcement.

38. Building and maintaining the required level of mutual trust is a two-way street. Ethics practitioners need to ensure that their work is rigorous and timely, objective in its scope and fair in its conclusions. Those setting the standards and exercising powers of enforcement have to value the role of the ethics practitioner, ensure that it is appropriately resourced and supported, role model the standards that are set for the organisation, respect the conclusions and advice that they are given by the ethics practitioner and take appropriate action.

39. If the role is not trusted or valued by those to whom the advice is given, and failings in standards are not seen to result in appropriate and consistent consequences, the role and, in turn, the ethical standards it is supporting risks losing credibility.

40. Ultimately, the only remaining option for an ethics practitioner faced with a situation where clear failures of ethical standards have been identified but are not actioned may be to resign. Rejection of sound advice from a trusted adviser resulting in the resignation of that adviser is a very bad outcome; such an event should be extremely rare and is unlikely to enhance the reputation of the organisation.

The common obstacles to success

41. No ethics programme is going to be successful unless people at all levels of the organisation feel empowered and safe in speaking up. Yet **fear** and **futility** remain the biggest barriers to speaking up.

42. Individuals are put off by a fear that raising a concern will have negative consequences in the workplace and a potential impact on their career. Organisations need to take very active steps to prevent retaliation, which can take many subtle forms and may not manifest itself either obviously or immediately.

43. Equally problematic is a feeling that no action will be taken even if people speak up. As important as encouraging speak up is ensuring that organisations listen up and follow up. This again requires a concerted programme of training, particularly for the middle managers, and a commitment to internal communications that are timely and transparent about the issues that have been raised and how they have been resolved. Organisations need to encourage and train managers at all levels to **actively listen** and ensure that there are **open communication channels** so that colleagues hear back about issues and how they have been resolved.

44. Some of the more common causes of concern relate to **procurement** and **promotions/appointments**. These involve processes which require high levels of transparency and where it is imperative that actual and potential conflicts of interest are declared and managed appropriately. Lapses in these areas are enormously damaging to overall levels of confidence in the ethical standards of the organisation. It is likely that heightened levels of public cynicism around 'cronyism' and perceived weaknesses in public procurement will have contributed to the weakened levels of trust in government through the pandemic.

45. Another sphere where it is imperative that consistently high standards are maintained is around **workplace behaviours**. The IBE's monitoring of media coverage in 2020 showed that ethical lapses relating to behaviour and culture still dominate the news, with concerns around the fair treatment of employees and diversity and discrimination also prominent. This reflects challenges across society, but those in public life have a particular responsibility to set and maintain consistently high standards.

46. Being alert to **microcultures** is key; small teams working in relative isolation can develop their own ways of working and behavioural norms. Most employees take their direction from their immediate line manager and will form their own view as to what is important to, and valued by, that individual. Decisive action is needed when behavioural standards set for the organisation as a whole are not met, and established failures at a senior level that do not result in sanctions can be hugely damaging culturally.

Updating the Principles

47. The Standards remain a strong, resonant benchmark for the public's expectations of leadership in public life. The Principles also set a standard for individual responsibility and values in leadership well beyond public life.

48. Our preference would be **not to amend the Principles** themselves. They have withstood the test of time and gave gained resonance through their simplicity and consistency.

49. However, it would seem an appropriate time to **revisit and update the descriptors**.

50. Some expansion of the descriptors would be useful with this in mind. As an example, Selflessness and the rather blunt exhortation to 'act solely in the public interest' has never translated effortlessly beyond the public sector, but the gap is narrowing, as mentioned above, It would be a good time to seek to bridge that gap through a slightly more expansive descriptor. One way of doing this might be to recast the descriptors in terms of outcomes (so that the descriptor for Selflessness, for example, talked about 'actions and decisions that are taken in relation to public services properly reflecting the public interest'; this would be more in line with a company's obligations under Section 172 of the Companies Act).

51. Workplace behaviours are high on the list for most organisations seeking to treat people fairly and equally, leverage the strength that diversity brings, and ensure that their cultures are genuinely inclusive. The importance of areas like bullying and harassment, whilst implicit, are not addressed directly in the Principles. Rather than add a new Principle, our preferred approach would be to see the descriptor relating to 'Leadership'

expand more on the need for those in public office to **role model the individual behaviours** required to establish and celebrate a diverse and inclusive culture. This would also help address the concern that the 'Leadership' principle as currently positioned might be seen as little more than a re-emphasis of the other Principles.

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