



The Boardman review

What the review into standards in public life got right – and what it missed

Tim Durrant

Summary

Following revelations around David Cameron's lobbying for finance firm Greensill Capital at the height of the pandemic, Nigel Boardman was asked by the Cabinet Office to investigate how the government manages such activity and the transfer of personnel between the public and private sectors. This short paper offers our view on what his review, now published, got right – and what was missing.

Boardman's suggestions are wide-ranging and ambitious. If implemented they will represent a sea-change in how government manages real and perceived conflicts of interest, an increase in transparency into the people and organisations with whom ministers discuss government policy, and a professionalisation of civil service processes that is long overdue.

The report's 19 formal recommendations, accompanied by several other "suggestions which responsible policy teams might want to consider further", cover everything from officials' second jobs to transparency of ministers' meetings and the national register of lobbyists.* These should be taken seriously by a government that has faced substantial criticism over the past year over its approach to ethical standards.

* Boardman's 19 recommendations and suggestions are published in Part 2 of his report, titled *Review Into The Development And Use Of Supply Chain Finance (And Associated Schemes) In Government*

Boardman was right to focus on enforcement, but should have looked harder at the rules for current ministers

One of the major themes of the report is how the rules and expectations around standards and behaviour in government can be better enforced. Boardman's first recommendation is "that government should establish an effective method for ensuring compliance with governance processes." He also recommends that the Advisory Committee on Business Appointments (ACOBA) should have the ability to enforce any restrictions it imposes on ministers and senior civil servants as to what post-government employment they can take up, via a legally enforceable "deed of undertaking" for ministers and a "restrictive covenant" approach for civil servants.

He suggests too that the code of conduct for board members of public bodies should be given a statutory basis. This is sensible: as we note in our paper on [government transparency](#), there are numerous, overlapping pieces of guidance for government board members that mean it is not easy for those individuals – or the public – to know which rules apply and when. Setting the code on a legislative basis would help clear up this confusion.

These changes would all show that the government recognised the importance of individual ministers and senior officials abiding by the rules – and being seen to do so. While there are various sets of rules currently in force, there are very few formal enforcement processes. As Boardman also argues throughout the paper, organisational culture is as important as rules for ensuring ethical behaviour, and the establishment of a compliance function in government departments would hopefully help to embed a culture whereby individuals are expected to actively ensure they are adhering to the rules, rather than just assuming that so long as nothing goes wrong they are doing enough. The Institute called for [greater enforcement](#) of the various sets of rules earlier in the year and we welcome the approach that Boardman sets out.

Boardman could have pushed for ministers to take more responsibility

One area where Boardman's report feels insufficient is the changes he wants ministers to make. Most of his recommendations focus on civil service processes – and while his recommendations on post-government jobs will affect ministers after they leave their posts, there is less discussion about how the rules that apply to ministers *currently* in government should change. The most notable omission is any discussion of the status of the [ministerial code](#). Boardman calls for the code of conduct for board members to be given a statutory basis, to bring it into line with other codes of conduct for public servants, but does not make a parallel suggestion for the ministerial code.

As we have [argued](#), the ministerial code should be given the same statutory underpinning as the codes of conduct for civil servants and special advisers. This does not mean legislating for each of its provisions; that would render it inflexible. But the existence of the code should be set out in statute, to ensure that it cannot be abolished at a prime minister's whim, and to make clear that ministers are just as accountable for their personal behaviour as the officials and special advisers that serve them.

This legislation could also be used to strengthen the role of the independent adviser on ministerial interests, giving them the power to start their own investigations into ministerial behaviour (something Boris Johnson chose not to do when redesigning the role in the wake of Sir Alex Allan's resignation in the spring). These changes would underpin an independent system for upholding the standards expected of ministers.

The proposals align with the government's desire to professionalise the civil service

This focus on compliance and enforcement, along with several suggestions for training courses for officials, perhaps reveals Boardman's background as a corporate lawyer. It also aligns with ministers' recent focus on the professionalisation of government. [The Declaration on Government Reform](#), signed by the prime minister and published in June, set out a series of reforms to how ministers and officials will work, with increased professionalisation for both groups a key theme throughout. Boardman's recommendations start from a similar principle: that those in government want to abide by the rules, and that extra training and resources will help ensure they are able to do so.

So Boardman's suggestions will hopefully find favour in government. While ministers may not necessarily see it this way, his recommendations are well-aligned with one of this government's stated priorities – reforming how the state works to deliver better outcomes for citizens.

Real change must now follow these recommendations

Nigel Boardman has set out ambitious, wide-ranging proposals that if implemented would go a long way to restoring faith in how government manages conflicts of interest, ensures that contact with the private sector is transparent, and polices what ministers and officials do after they leave public service. But having the big ideas is not enough – ministers must now [put them into action](#) and embed them into the culture of government.

Unfortunately, there are reasons to doubt that the government will do this. First, the report was published, quietly, on gov.uk during the height of September's [ministerial reshuffle](#). Then, it is actually dated 5 August, implying it was sitting on a hard drive somewhere in Whitehall for six weeks before publication. Whether the government was waiting for a time when the attention of journalists and other Westminster-watchers was elsewhere, or simply left it languishing at the bottom of a Cabinet Office to-do list, it is hard to see this as one of its burning priorities.

There is also a question about who will take these recommendations forward. Much of the impetus behind the government's agenda for civil service reform came from two figures: Dominic Cummings and, until September, minister for the Cabinet Office Michael Gove.

Neither is in the same post now, Cummings having left government and Gove moving to the new Department for Levelling Up, Housing and Communities to take charge of another of the government's key stated priorities.

It is too early to say if Gove's successor at the Cabinet Office, Stephen Barclay, will capitalise on the report as part of his own approach to civil service reform. And while Barclay will lead the civil service reform agenda, it is the prime minister who has overall responsibility for ethical standards in government – he both makes the detailed decisions on the rules and sets the overall tone.

Because fundamentally, as we have argued [many times before](#), changes to standards and behaviour are as much about culture as they are about rules and enforcement, and this is set by the example of those at the top. Boardman argues that "example and exhortation" are needed to ensure that the government learns from the Greensill scandal. That example must come from senior officials, from permanent secretaries down, but also from the prime minister. Unfortunately his attitude to upholding existing standards [has not always met expectations](#).

Boardman's decision to focus most of his recommendations on changes for the civil service, not ministers, and not to push the idea that the ministerial code should be put on the same statutory footing as other codes of conduct for public servants, means that ministers come off relatively lightly in his report. In fact, as the leaders of the government, it is ministers, and the prime minister above all, who must show that they are stepping up to the responsibility that the moment requires of them.

The government has committed to studying Boardman's report and will announce its response in due course. The prime minister is also still due to publish an updated ministerial code following his appointment of Lord Geidt as his independent adviser on ministerial interests. This gives Johnson yet another opportunity to show that he means it when he says he expects high standards for conduct in public life, and to embed these high standards across government. He has snubbed [several of these opportunities](#) in recent months – this time should be different.

Annex: Assessment of Boardman’s main recommendations

New rules are needed for those currently inside government

Boardman begins his recommendations focusing on those working for government, whether permanent civil servants or direct ministerial appointees (like Lex Greensill and, more recently, the various [tsars](#) appointed during the pandemic).

Better management of real or potential conflicts of interest, clear water between a new official and their previous employer, and properly defined roles and responsibilities for direct appointees are all sensible changes. Boardman also calls for greater transparency of officials’, special advisers’ [and non-executive directors’](#) potential or actual conflicts of interest, and greater monitoring by departments of whether any of their employees have second jobs. Some of this has already been prompted by the Greensill saga – Boardman’s recommendation on how to formalise these changes is very welcome as well.

Processes must also change for those leaving government

The next group Boardman focuses on is those, both ministers and officials, who have left government. He wants to see the government working more closely with the Advisory Committee on Business Appointments (ACOBA) to ensure that its advice is issued promptly and properly followed. This would mean a big expansion in the role of ACOBA – and presumably, therefore, an increase in its staffing and budget. Any administrative budget increase would be a small price to pay to help rebuild trust that the government can ensure that leaders do not use the knowledge they have gained from their time in public service for personal gain.

Boardman rejects calls for the ban on former ministers lobbying government to be extended from two years after they left office to five (something the Institute has called for in the case of former cabinet ministers). He argues that any period of time would be arbitrary, but does leave the door open for ACOBA to be able to impose more stringent conditions on particular ministers if they think this is warranted. There is clearly recognition that the seniority of prime ministers and other senior ministers may warrant particular conditions on their post-government jobs. (Boardman does however reject David Cameron’s suggestion that a “special ACOBA” could be set up to advise former prime ministers on what roles they may want to take on after leaving office, saying it would not be called on often enough to be able to provide a useful service. It is hard to disagree with Boardman’s assessment on this point.)

Greater transparency is needed into contact between government and outsiders

The third area Boardman looks at is how meetings, conversations and other forms of contact between government figures (namely ministers, senior officials and special advisers) and businesses, charities and other outsiders are managed and documented. He calls for much greater transparency into whom ministers meet, recommending that departments should provide more regular, more detailed publications on this.

As our report *Government Transparency* shows, departments' record on publishing information on the meetings held by their ministers, senior officials and special advisers is already fairly patchy, with many releases published late, containing incomplete data, or missing. While Boardman's ambition is welcome, departments have a long way to go before they can even claim to be up to scratch on their current transparency commitments.

Boardman also argues that more forms of contact should be included in the transparency releases – so not just face-to-face meetings (or video calls during the pandemic), but any email exchanges, phone calls, text messages and WhatsApp conversations where government business is discussed. As he points out, these exchanges clearly fall somewhere on a spectrum – not all will be equivalent to full meetings, but some definitely will. The Institute has previously called for the same transparency requirements to apply to all conversations, on whatever medium, that ministers have about government policy and we agree with Boardman's recommendation that these should be included.

Boardman also wants more transparency into lobbying and lobbyists. He does not argue, as we have, that all lobbyists should have to register with the registrar of consultant lobbyists. But he does want the requirement to be extended to any former minister or senior civil servant who engages in lobbying, as well as to those who lobby 'incidentally' on behalf of their clients – that is, those firms and individuals (Boardman highlights accountants, lawyers, consultants and public relations professionals) whose main job is not lobbying but who do so alongside their other work for their clients. This extension is a sensible next step for how lobbying is regulated, although until all lobbying is treated in the same way there are likely to be continued calls for change.

Boardman also calls for what lobbyists must declare to be expanded, arguing they should have to provide much more information about who is ultimately paying for their work, whom in government they are speaking to and what they are discussing. He also calls for greater criminal sanctions and a statutory code of conduct for lobbyists, which would be a substantial strengthening of the rules.

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