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Preventing corruption and promoting integrity in
central governments (top executive functions) and
law enforcement agencies

EVALUATION REPORT

UNITED KINGDOM

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Group of States against Corruption
Groupe d'États contre la corruption



TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	4
II. INTRODUCTION AND METHODOLOGY	6
III. CONTEXT	7
IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)	9
SYSTEM OF GOVERNMENT AND TOP EXECUTIVE FUNCTIONS.....	9
<i>Status and remuneration of persons with top executive functions</i>	10
ANTICORRUPTION AND INTEGRITY POLICY, REGULATORY AND INSTITUTIONAL FRAMEWORK	13
<i>Anticorruption and integrity policy</i>	13
<i>Legal framework/ethical principles and rules of conduct</i>	14
<i>Institutional framework</i>	17
<i>Awareness</i>	19
TRANSPARENCY AND OVERSIGHT OF EXECUTIVE ACTIVITIES OF CENTRAL GOVERNMENT	20
<i>Access to information</i>	20
<i>Transparency of the law-making process</i>	20
<i>Third parties and lobbyists</i>	21
<i>Control mechanisms</i>	23
CONFLICTS OF INTEREST	24
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	25
<i>Incompatibilities, outside activities and financial interests</i>	25
<i>Contracts with state authorities</i>	26
<i>Gifts</i>	26
<i>Misuse of public resources</i>	26
<i>Misuse of confidential information</i>	27
<i>Post-employment restrictions</i>	27
DECLARATION OF ASSETS, INCOME, LIABILITIES AND INTERESTS	30
<i>Declaration requirements and review mechanism</i>	30
ACCOUNTABILITY AND ENFORCEMENT MECHANISMS	31
<i>Criminal proceedings and immunities</i>	31
<i>Non-criminal enforcement mechanisms</i>	32
V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES	34
ORGANISATION AND ACCOUNTABILITY OF LAW ENFORCEMENT/POLICE AUTHORITIES	34
<i>Overview of various law enforcement authorities</i>	34
<i>Organisation and accountability of selected law enforcement authorities</i>	34
<i>The Metropolitan Police Service (MPS)</i>	34
<i>The National Crime Agency (NCA)</i>	35
<i>Oversight bodies</i>	36
<i>Access to information</i>	36
<i>Public trust in law enforcement authorities</i>	37
<i>Trade unions and professional organisations</i>	37
ANTI-CORRUPTION AND INTEGRITY POLICY	38
<i>Anti-corruption and integrity policy, ethical principles and rules of conduct</i>	38
<i>Risk management measures for corruption prone areas</i>	39
<i>Handling undercover operations and contacts with informants and witnesses</i>	39
<i>Advice, training and awareness</i>	40
RECRUITMENT, CAREER AND CONDITIONS OF SERVICE	42
<i>Appointment procedure and promotion to a higher rank</i>	42
<i>Performance evaluation</i>	44
<i>Rotation</i>	44
<i>Termination of service and dismissal from office</i>	44
<i>Salaries and benefits</i>	45
CONFLICTS OF INTEREST.....	45
PROHIBITION OR RESTRICTION OF CERTAIN ACTIVITIES	46
<i>Incompatibilities and outside activities</i>	46

<i>Gifts</i>	46
<i>Financial interests</i>	47
<i>Misuse of public resources</i>	47
<i>Third party contacts, confidential information</i>	47
<i>Post-employment restrictions</i>	48
DECLARATION OF ASSETS, INCOME, LIABILITIES AND INTERESTS	48
<i>Declaration requirements</i>	48
<i>Review mechanisms</i>	49
OVERSIGHT AND ENFORCEMENT	49
<i>Internal oversight and control</i>	49
<i>External oversight and control</i>	51
<i>Complaints system</i>	54
<i>Reporting obligations and whistleblower protection</i>	54
<i>Criminal proceedings and immunities</i>	55
<i>Statistics</i>	56
VI. RECOMMENDATIONS AND FOLLOW-UP	57

I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in the United Kingdom to prevent corruption amongst persons with top executive functions (ministers and senior government officials) and members of law enforcement agencies (more specifically the London Metropolitan Police Service and the National Crime Agency). The United Kingdom has laid down a wide range of standards and put in place procedures to ensure integrity and ethical conduct amongst the two categories here examined. Nonetheless, a number of shortcomings are identified in this report that would require the authorities' attention to strengthen corruption prevention in respect of ministers and senior government officials as well as law enforcement officials.

2. The United Kingdom has adopted several codes of conduct that apply to the different categories of persons with top executive functions working in government, i.e. ministers, special advisers and senior civil servants. They provide guidance for avoiding situations of conflict of interest when serving in government, for example by examining personal interests when taking up and while in office, as well as upon leaving government, with post-employment restrictions. In order to ensure compliance with these standards, institutions have been specifically set up: the Independent Adviser on Ministers' Interests and the Advisory Committee on Business Appointments (ACoBA). However, these institutions do not have a statutory basis and their mandate is purely advisory. Compliance with integrity and ethical standards for ministers is therefore essentially based on self-regulation and reputational damage. The Independent Adviser, who is appointed by and reports to the Prime Minister, can only initiate investigations into alleged breaches on the PM's initiative, and possible sanctions are also left to the PM. In practice, cases are very often resolved directly by the PM, with the minister having breached ministerial standards leaving government, without any investigation from the Independent Adviser taking place. Similarly, ACoBA examines requests for advice lodged by ministers and senior officials before accepting employment when leaving government but cannot impose sanctions when its advice has not been sought or respected. The report concludes that both institutions may gain in being considerably more autonomous from government and being capable of investigating breaches on their own initiative leading to sanctions.

3. Lobbying plays an important part in the parliamentary and government process of the United Kingdom and lobbying is generally well regulated, in terms of European standards. Contacts with lobbyists are subject to transparency rules, with the publication of the list of meetings of ministers with third parties and a register of consultant lobbyists. In addition, the Freedom of Information Act allows the public to request access to information not immediately available, including on ministerial meetings with third parties. While such transparency is to be welcomed, there are some practical flaws that need attention. The report point out that the list of ministerial meetings with lobbyists, which currently only gives generic information on their content, should contain information that it is sufficient to understand the specific object of these meetings. Moreover, the authorities should consider expanding the register of consultant lobbyists which currently does not include corporates' in-house lobbyists and therefore only gives a limited view of lobbying activities directed towards government. In addition, the report notes that consultant lobbyists are only required to record their clients if they have been in contact with ministers or permanent secretaries, but not special advisers and other senior government officials.

4. On a more general note, it appears that often standards and advisory bodies pertaining to the conduct of ministers and senior government officials have been created in reaction to specific problems rather than on the basis of risk assessments identifying areas where tighter control was needed. The report highlights the need to adopt a holistic and more proactive approach and entrust a mechanism with the task of undertaking risk analyses to inform future steps to mitigate corruption risk areas.

5. As to the law enforcement authorities, the United Kingdom has a developed framework in place, with a detailed set of standards pertaining to the integrity and the ethical conduct of police staff and procedures to assess compliance internally (vetting, declaration of interests, etc.) and to decide on alleged breaches both internally and, where needed, through an independent body, i.e. the Independent Police Complaints Commission (IPCC). However, this report, which looks in more detail at the London Metropolitan Police Service (MPS) and the National Crime Agency (NCA), points to a number of weak spots in practice that require action from the UK authorities.

6. When it comes to security vetting, initial vetting is systematically carried out at recruitment stage but re-vetting after joining the MPS, which should be carried out at fixed intervals, appears to be inconsistently and tardily done, by reason of insufficient qualified staff. This weakness of the system may lend itself to being exploited by criminal organisations attempting to influence police staff, as has reportedly already been the case, and the report therefore calls for this issue of re-vetting to be addressed.

7. Regarding staff awareness, there is no clearly predefined, signposted procedure for police officials to obtain confidential advice in case of integrity and ethical dilemma. The report calls on the authorities to ensure that there are properly trained persons of trust in police units to provide confidential advice on integrity and ethical issues. It also underlines the need for additional efforts also to be made to better link training on integrity and ethical issues with the day-to-day duties of police officers.

8. The identification of breaches and management of misconduct cases know several drawbacks that weigh upon a system otherwise comprehensive. The procedure involving the IPCC has been described as overly complex and the IPCC is currently swamped with cases. The reform which is currently underway will have to resolve these issues in order to make the whole complaint system truly effective. In addition, in relation to the identification of police misconduct, the report notes there appears to be insufficient guarantees to protect those within the forces coming forward to denounce the wrongdoings of colleagues. Therefore, the authorities are called on to strengthen the protection of whistleblowers within the police forces.

II. INTRODUCTION AND METHODOLOGY

9. The United Kingdom joined GRECO in 1999 and has been evaluated in the framework of GRECO's First (in September 2001), Second (in September 2004), Third (in February 2008) and Fourth (in April 2012) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website (www.coe.int/greco). This Fifth Evaluation Round was launched on 1 January 2017.¹

10. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of the United Kingdom to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of the United Kingdom, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, the United Kingdom shall report back on the action taken in response to GRECO's recommendations.

11. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to the United Kingdom from 26 to 30 June 2017, and reference was made to the responses by the United Kingdom to the Evaluation Questionnaire (GrecoEval5(2017)4), as well as other information received, including from civil society. The GET was composed of Mr Jean-Christophe GEISER, Senior Legal Adviser, Public Law Division, Federal Office of Justice (Switzerland), Mr Aidan MOORE, Assistant Principal, Standards in Public Office Commission, Standards Commission (Ireland), Mr Lawrence QUINTANO, retired Judge, Chair of the Permanent Commission against Corruption (Malta) and Ms Silvia SPÄTH, Case Officer, Detective Chief Inspector, Corruption Prevention, Sponsoring, Public Procurement, Ministry of the Interior (Germany). The GET was supported by Mr Björn JANSON, Deputy Executive Secretary of GRECO and Mr Gerald DUNN of the GRECO Secretariat.

12. The GET interviewed representatives of the Cabinet Office Propriety and Ethics Team and Constitution Group, the Chair of the Committee on Standards in Public Life, the Independent Adviser on Ministers' Interests, representatives of HM Treasury, the National Audit Office and the Independent Advisory Committee on Business Appointments, and the Independent Registrar of Consultant Lobbyists. Furthermore, the GET met the National Police Chair of the National Counter-Corruption Advisory Group, representatives of the Home Office (Police Discipline; Corruption and Public Sector Lead; Anti-Corruption Policy Team), the Metropolitan Police Service (Directorate of Professional Standards; Vetting Unit), the National Crime Agency (Professional Standards; Standards and Security; G2 Anti-Corruption Unit), UK Border Force, the College of Policing, HM Inspectorate of Constabulary and Fire Rescue Services and the Independent Police Complaints Commission. In addition, the GET also had meetings with civil society, union and media representatives.

¹ More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](http://www.coe.int/greco).

III. CONTEXT

13. The United Kingdom has been a member of GRECO since 1999 and has undergone four evaluation rounds focusing on different topics related to the prevention and fight against corruption.² The United Kingdom has achieved a high level of implementation of GRECO's recommendations under each evaluation round. At the closure of procedures on compliance with recommendations, 85% of recommendations of the first evaluation round had been fully implemented (with only one recommendation not implemented), 100% of recommendations of the second evaluation round, 75% of recommendations of the third evaluation round (with only two recommendations not implemented) and 85% of recommendations of the fourth evaluation round (with only one recommendation partly implemented).³

14. The United Kingdom has developed robust legislation against corruption essentially with the adoption of the Bribery Act 2010, which GRECO has welcomed and which has been described as one of the strictest legislation internationally in the field. In 2016, the UK Government also hosted the first international anti-corruption summit in London. The most significant government policy document has been the first Anti-Corruption Plan⁴ released in 2014. The Inter-Ministerial Group on Anti-Corruption was set up as a cross-government effort to oversee action to address corruption and to assess the implementation of the Anti-Corruption Plan. It published a Progress Update on the Anti-Corruption Plan in 2016 in order to take stock of actions taken and those remaining.⁵ Since 2004, a Government Anti-Corruption Champion has also been appointed by the Prime Minister to ensure internal coordination (co-chairing the Inter-Ministerial Group, for instance) and external representation (engaging with civil society and international stakeholders).

15. However, the post of Government Anti-Corruption Champion has been vacant since the last incumbent stepped down in spring 2017. Similarly, the Inter-Ministerial Group on Anti-Corruption does not appear to be currently active. Furthermore, the release of the new Strategy on Anti-Corruption, which is intended to become the Government's new flagship policy document, has been postponed several times since 2016 and was yet to be adopted at the end of 2017.

16. Public perception of corruption in the United Kingdom has been consistently low over the years. In the latest corruption perception index published by the Transparency International (TI), the United Kingdom comes 10th amongst the least corrupt countries in the

² Evaluation round I: Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption / Extent and scope of immunities; Evaluation round II: Identification, seizure and confiscation of corruption proceeds / Public administration and corruption / Prevention of legal persons being used as shields for corruption / Tax and financial legislation to counter corruption / Links between corruption, organised crime and money laundering; Evaluation round III: Criminalisation of corruption / Transparency of party funding; Evaluation round IV: Prevention of corruption in respect of members of parliament, judges and prosecutors.

³ These figures provide a snapshot of the situation regarding the implementation of GRECO's recommendations at the time of formal closure of the compliance procedures. The country may therefore have implemented the remaining recommendations after the formal closure of the compliance procedure.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf

⁵ 62 of the 66 actions were considered as "having been delivered or on track to be delivered": https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522802/6.1689_Progress_Update_on_the_UK_Anti-Corruption_Plan_v11_web.pdf

world.⁶ According to the latest Eurobarometer, 64% of respondents thought the problem of corruption was widespread, even though few respondents admitted knowing someone having taken a bribe (7%, the lowest score in the EU).⁷ At the same time, the perception of how well the Government addresses corruption risks is significantly less positive as, according to TI's 2017 Global Corruption Barometer, 57% of respondents considered that the Government was not dealing satisfactorily with corruption, while 34% were of the view that it was responding adequately to it.⁸ These results demonstrate high public expectations regarding government action to stamp out corruption.

17. The concerns of the general public are probably also connected to frequent media reports of alleged breaches of integrity and ethical standards by politicians – either members of parliament or ministers – as well as special advisers and senior civil servants serving in government. A great number of these reports point to possible conflicts of interest and revolving doors.⁹ The media also regularly draws the attention of the public to alleged cases of corruption amongst the police forces.¹⁰

⁶ https://www.transparency.org/news/feature/corruption_perceptions_index_2016#table

⁷ http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs_397_en.pdf

⁸ https://www.transparency.org/news/feature/global_corruption_barometer_citizens_voices_from_around_the_world

⁹ See for instance, “Public Servants, Private Paydays – How ministers and mandarins make life after government pay – A Revolving Doors Special”, Private Eye, Issue 1426, 2.09.2016 (<http://www.private-eye.co.uk/special-reports/revolving-doors>); “Tax haven lobby boasted of 'superb penetration' at top of UK government”, The Guardian, 7.11.2017 (<https://www.theguardian.com/news/2017/nov/07/tax-haven-lobby-superb-penetration-uk-government-paradise-papers>); “Ex-Cameron aide in tobacco firm lobbying row - Call for stricter 'revolving door' rules after former No 10 special adviser Kate Marley plugs cigarette firm at Tory conference”, The Observer, 21.10.2017 (<https://www.theguardian.com/politics/2017/oct/21/david-cameron-kate-marley-philip-morris-lobbying-ethics>); “Ex-minister Mark Hoban 'forgot' PWC links - City jobs watchdog not told of possible conflict”, The Times, 27.09.2017 (<https://www.thetimes.co.uk/article/ex-minister-mark-hoban-forgot-pwc-links-rs8fxjhht>); “Theresa May's spin doctor gets paperwork right after questions over conflict of interest - Resignation of Katie Perrior as director of three PR firms formalised five months after she became PM's head of communications”, The Guardian, 21.02.2017 (<https://www.theguardian.com/politics/2017/feb/21/theresa-mays-spin-doctor-quit-pr-roles-after-questions-over-conflict-of-interest>).

¹⁰ See, for instance: “Met Police 'corruption' claims lead to calls for investigation”, BBC News, 23.06.2016 (<http://www.bbc.com/news/uk-35394085>); “The shocking truth about police corruption in Britain”, The Spectator, 7.03.2015 (<https://www.spectator.co.uk/2015/03/the-shocking-truth-about-police-corruption-in-britain/>); “New investigation after '2,000 officers' are implicated in corruption”, The Independent, 17.10.2014 (<http://www.independent.co.uk/news/uk/home-news/new-investigation-after-2000-police-officers-are-implicated-in-corruption-9802832.html>).

IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

System of government and top executive functions

System of government

18. The United Kingdom is a constitutional monarchy and a parliamentary democracy with a constitutional Head of State (Her Majesty the Queen); a sovereign Parliament, consisting of the House of Commons and the House of Lords; an executive power (the Government, led by the Prime Minister) drawn from and accountable to Parliament; and an independent judiciary. The executive power is exercised by the Government, which has a democratic mandate to govern. Members of the Government are normally members of the House of Commons or the House of Lords and government ministers are directly accountable to Parliament.

19. The United Kingdom does not have a codified constitution. There is no single document that describes, establishes or regulates the structures of the State and the way in which these relate to the people. Instead, the constitutional order has evolved over time and continues to do so. It consists of various institutions, statutes, judicial decisions, principles and practices that are commonly understood as “constitutional”.

20. The Head of State in the United Kingdom, the Queen, plays a ceremonial role connected to the functioning of government (for instance in the formation of a government, the making of certain appointments, the opening of the Parliamentary session and giving royal assent to passed legislation). However, in these respects, the monarch acts at all times on the advice of the government and strict constitutional principles which limit her role to a ceremonial one.

21. At no point does the Queen exercise discretionary powers in an executive capacity. For instance, each new session of Parliament is formally opened by the sovereign who delivers on this occasion the Queen’s Speech, which is prepared by the government and outlines the government’s forthcoming legislative programme. The sovereign plays no role in drafting the speech and has no discretion over its content. The Queen is also responsible for formally approving the appointment of ministers and some senior public appointments; however this is done exclusively upon the advice of the PM. She is the Head of the Armed Forces, but this role is purely ceremonial as she has no operational function. The Queen undertakes and hosts state visits, however such visits are conducted on the advice of the government and once again are ceremonial in nature. A number of powers are referred to as “Royal Prerogative” (such as the proroguing of Parliament and the granting of mercy), but these are also exercised exclusively on the advice of the government or by the government directly on her behalf.

22. As agreed by GRECO, a head of State would be covered by the 5th evaluation round under “central governments (top executive functions)” when s/he actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

23. The GET notes that the Head of State in the United Kingdom does not actively participate on a regular basis in the development and/or execution of governmental functions. The role of the Queen is clearly of a representative and ceremonial character and the links to the executive branch that exist are limited to ceremonial/formal decisions and in these situations, the Head of State is clearly to be guided by the government or within the constraints of constitutional convention and precedent. This prevents the Queen from exercising discretionary powers in an executive capacity. This position of the monarch is based on long standing practice in the United Kingdom and is not contradicted by other information received by the GET. It follows that the Head of State in the United Kingdom does not fall within the category of “*persons who are entrusted with top executive functions*” (PTEFs) which is covered by the current Evaluation Round.

24. The Prime Minister is the head of the Government and holds that position by virtue of her/his ability to command the confidence of the House of Commons, which in turn commands the confidence of the electorate, as expressed through general elections, which are to be held at least every five years. The PM will normally be the accepted leader of a political party that commands the majority of the House of Commons. The PM determines the membership of Cabinet and its committees.

Status and remuneration of persons with top executive functions

25. The PM leads the Government. In general, the ministers in the Government are divided into the following categories: senior ministers, junior ministers, law officers¹¹ and whips¹². The Cabinet is the ultimate decision-making body of the Government. The purpose of the Cabinet and its committees is to provide a framework for ministers to consider and make collective decisions on policy issues. The PM and most senior ministers in the Government constitute the Cabinet. It will always include the Chancellor of the Exchequer, the Home Secretary, the Foreign Secretary, the Lord Chancellor and secretaries of state, i.e. senior ministers. There are no formal limits on the size of the Cabinet but there are limits on the number of ministerial salaries that can be paid. The Cabinet currently comprises 23 members; six women, including the PM, and seventeen men, i.e. 26% of women and 74% of men. In total, there are currently 118 ministers, with 73.5% of men and 26.5% of women. In this respect, GRECO draws attention to the Committee of Ministers’ [Recommendation Rec\(2003\)3 on balanced participation of women and men in political and public decision](#), according to which making balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.

26. The PM is responsible for the overall organisation of the Government and the allocation of functions between ministers. It is well established practice for each secretary of state to be allocated responsibility by the PM for a particular department (e.g. health, foreign affairs, defence, transport, education, etc.) and accordingly, for each secretary of

¹¹ As the Government’s senior legal advisors, the law officers (the Attorney and Solicitor General) will advise the Government and oversee the work of the independent prosecuting authorities, the Crown Prosecution Service and Serious Fraud Office. The Advocate General for Scotland, also a law officer, provides legal advice, drafting and litigation services to the Government in relation to Scotland.

¹² The Government whips include the Leader of the House of Commons and the Leader in the House of Lords whose responsibility is chiefly the conduct of government business in both chambers.

state, in practice to exercise only those functions that are within that department. Departments generally have one or more junior ministers who are responsible for specific areas within which they carry out functions in the name of the department's senior minister. Ministers' powers derive from legislation passed by Parliament, the Royal Prerogative¹³ and common law. Each form of power is subject to limits and constraints, and its use may be challenged in the courts.

27. Many Acts of Parliament grant powers to ministers or place statutory duties upon them. Normal practice is that the powers and duties involved in exercising functions of ministers should be identified in legislation. Other powers are conferred on a specific minister and may only be exercised by that minister – for example a number of powers in relation to the judiciary are specifically conferred on the Lord Chancellor, and some ministerial posts have quasi-judicial functions (e.g. granting planning permissions following a call-in of planning applications).

28. The Cabinet system of government is based on the principle of collective responsibility. All government ministers are bound by the collective decisions of Cabinet and carry joint responsibility for all the Government's policies and decisions. Before a decision is made, ministers are given the opportunity to debate the issue, with a view to reaching an agreed position. There are no set rules about the issues that should be considered by Cabinet itself and it is ultimately for the PM to fix the agenda. While statutory powers may be conferred on individual ministers, in practice the exercise of those powers is normally subject to collective agreement. However, matters wholly within the responsibility of a single minister and which do not significantly engage collective responsibility need not be brought to Cabinet or to a Cabinet committee unless a minister wishes to inform his or her colleagues or to have their advice, typically when the issues are likely to lead to significant public comment or criticism, the subject matter affects more than one department or in case of an unresolved conflict between departments. However, the GET noted that there are no definitive criteria for issues which engage collective responsibility.

29. By convention, most ministers are also Members of Parliament¹⁴ and as such have a duty to represent their constituencies. This is further dealt with under "Conflicts of interest", below.

30. Ministers only remain in office for so long as they retain the confidence of the PM, who is the ultimate judge of the standards of behaviour expected of ministers and the appropriate consequences of a breach of those standards. Ministers who knowingly mislead Parliament are expected to offer their resignation to the PM. Ministers are also expected to resign when they are not able to continue to accept collective responsibility, or because of issues relating to their conduct in office, or due to a personal or private matter.

31. The Cabinet Secretary, who is the highest-ranked civil servant and the most senior policy adviser to the [PM](#), is appointed to this post by the PM on the advice of the First Civil Service Commissioner. The Cabinet Secretary is an impartial civil servant – not a political appointment. He/she is the head of the Cabinet Secretariat and advises the PM on questions

¹³ Royal prerogative executive powers are those exercised on the sovereign's behalf by ministers.

¹⁴ There have been exceptions where persons were appointed as a minister in anticipation of their becoming a Member of one of the Houses of Parliament or continued to hold office for a short period after ceasing to be an MP. In some cases ministers are members of the House of Lords rather than the House of Commons.

connected with the appointment and organisation of Cabinet committees. The Cabinet Secretariat is non-departmental in function and composed of civil servants from across government; they support the PM and the chairs of Cabinet committees in ensuring the smooth running of government business, including that proper collective consideration takes place.

32. Permanent secretaries are the most senior civil servants in the different government departments. Each permanent secretary supports the senior minister in the running of his/her department. They are responsible to the Cabinet Secretary for the effective day-to-day management of the department. A permanent secretary is usually the department's accounting officer, i.e. the person who has personal responsibility to report to Parliament for the spending and use of resources of the department. Where a permanent secretary, as accounting officer, disagrees with a proposed course of action of a minister on grounds of propriety, regularity or value for money relating to the proposed expenditure, they are required to seek a written ministerial direction. This direction will be copied to the Comptroller and Auditor General who will normally draw the attention of the House of Commons Committee of Public Accounts.

33. More generally, civil servants working in government are to support the government of the day in developing and implementing its policies and are accountable to ministers. In doing so, civil servants must abide by the standards of conduct and behaviour set out in the *Civil Service Code* and, in particular, those of integrity (public service above personal interests), honesty (being truthful and open), objectivity (basing advice on rigorous analysis of the evidence) and impartiality (serving equally well governments of different political persuasions). Ministers must uphold the political impartiality of the civil service. They must give fair consideration and due weight to informed and impartial advice from civil servants in reaching their policy decisions

34. Cabinet ministers may each appoint up to two special advisers. Special Advisers add a political dimension to the assistance available to ministers and the Government, by contrast with the political impartiality of the civil service. At the same time, they are considered as temporary civil servants and are working alongside permanent civil servants. They assist in matters where the work of the government and that of the government party overlap and where it would be inappropriate for civil servants to become involved. All appointments need to receive the prior written approval of the PM. The PM may also authorise the appointment of special advisers for ministers who regularly attend Cabinet meetings. There is no limit on the number of advisers the PM can appoint. Special advisers are appointed to serve the PM and the Government as a whole, not just to their appointing minister. The responsibility for the management and conduct of special advisers, including discipline, rests with the minister who made the appointment. It is also the appointing ministers' responsibility to ensure that their special adviser(s) adhere to the *Code of Conduct for Special Advisers*. Individual ministers are accountable to the PM, Parliament and the public for actions and decisions in respect of their special advisers. Their appointment ends at the end of the Administration which appointed them or when the appointing Minister leaves the government or moves to another appointment. It is also open to the PM to terminate the employment of special advisors. There are currently over 80 special advisors.

35. The Ministerial and other Salaries Act 1975 sets out the salary levels of members of the Government. Ministers who are also members of the House of Commons – i.e. the great

majority of ministers – receive their salary for being a MP and a ministerial salary. Ministers who are members of the House of Lords receive a ministerial salary but they cannot claim the Lords Attendance Allowance available to non-ministerial members of the House of Lords. In 2016 the PM’s annual salary was GBP 75 440/EUR 85 540, the annual salary of Cabinet ministers was GBP 67 505/EUR 76 550 and that of other ministers GBP 31 680/EUR 35 930. For those ministers who are MPs, the annual salary of MPs which they received in addition to their ministerial salary was GBP 74 962/EUR 85 010.¹⁵

36. Some ministers may be allocated official residences which does not exempt them from personal tax liabilities, including council tax. The use of official residences is regulated by the Ministerial Code. Ministers who occupy an official residence will not be able to claim accommodation expenses from the Independent Parliamentary Standards Authority. Official hospitality expenses linked to official residences are covered by the government department concerned; transparency data on such events can be consulted on the Government’s website. Minister’s access to official residences ends when they leave office.

37. The Public Duty Cost Allowance was introduced to assist former Prime Ministers, still active in public life. Payments are made only to meet the actual cost of continuing to fulfil public duties. The costs are a reimbursement of incurred expenses for necessary office costs and secretarial costs arising from their special position in public life. The allowance is currently set at a maximum of GBP 115 000/EUR 130 400 per annum.

Anticorruption and integrity policy, regulatory and institutional framework

Anticorruption and integrity policy

38. In addition to the legal and institutional framework, ethical principles and other standards referred to in this Report, there is no separately stated anti-corruption policy or strategy pertaining to PTEFs in the United Kingdom. That said, current legislation and regulations taken together provide a framework that reflects a policy aiming at preventing and counteracting various situations of conflicts of interest and thus risks of corruption.

39. The GET was told that legislation, codes of conduct and institutions involved in matters relating to the integrity of public officials had developed on an ad hoc basis over the years, often as consequences of situations where particular integrity problems had occurred and needed to be fixed. The establishment of the Committee on Standards in Public Life (CSPL) is such an example. The Committee was established following a corruption scandal, to review and develop standards of conduct. The approach to address problems as they arise seems to be the practice in the United Kingdom. Accordingly, the GET did not come across a coordinated system for analysing major corruption risk factors, facing PTEFs, in an unconditional strategic manner at central governmental level, other than the information from the authorities that standards of conduct are being kept under review (see paragraph 43).

¹⁵ [House of Commons Briefing Paper, Number 07762, 10 November 2016 \(corrected 13 June 2017\), Members' pay and expenses and ministerial salaries 2016/17](#)

Legal framework/ethical principles and rules of conduct

40. Ministers, like any citizen, must comply with the law. In addition, ministers are subject to the *Ministerial Code*. This Code, which is publicly available, sets out the principles and standards of conduct and behaviour expected of all ministers in order to comply with and protect the integrity of public life. The Code covers a wide range of integrity related issues, including managing financial interests and post-employment restrictions. The Code is clear in that there is an overarching duty upon ministers to comply with the law. It was first published as *Questions of Procedure for Ministers* in 1992.

41. The Ministerial Code, which is not a statutory instrument, sets out the principles and standards of conduct and behaviour expected of government ministers. It provides detailed guidance with regard to government business, ministerial appointments, department business, working with civil service officials, how to deal with constituency and party interests as well as private interests, presenting government policy, relationship with Parliament and ministerial travel. The Code makes it clear that Ministers must ensure that no conflict of interest arises, or could reasonably be perceived to arise, between their public duties and their private interests, financial or otherwise.

42. The Code clearly states that ministers will only remain in office for as long as they retain the confidence of the PM. Despite not being statutory, the code is binding on ministers. The PM is the ultimate judge of the standards of conduct and behaviour expected of a minister and what the appropriate consequences of a breach are, and s/he, is in turn accountable to Parliament and the wider public.

43. The GET learnt that it is customary for a revised Code to be released at the beginning of a new administration and at a new Parliament. In practice this means that the vast majority of the content of these codes are transferred from the previous government to the new one, while it allows for a regular update of the code as deemed necessary. The GET takes the view that the dynamics and continuity of the ministerial codes, as adopted by one government after the other, would benefit from connecting this process to a mechanism analysing and mitigating particular risk of conflicting interests and corruption relating to the conduct of PTEFs (as referred to above).

44. The GET is of the opinion that increased attention should be given to adopting a more holistic approach when defining risk areas of conflicts of interest and corruption at central government level. The CSPL (described below) would appear to have pertinent structures for such a task, which also requires broad consultation and co-ordination with other mechanisms in place. In view of the foregoing, **GRECO recommends establishing a centralised mechanism for analysing and mitigating risk areas of conflicting interests and corruption in respect of individuals with top executive functions at central government level.**

45. Ministers, who are also MPs, are in addition under an obligation to follow the [Code of Conduct](#) for Members of Parliament, which describes their responsibilities and is based on a set of principles. The Guide to the Rules relating to the conduct of Members sets out in detail MPs' obligations to register and declare their financial interests, and the restrictions on lobbying for reward or consideration. Similarly, the House of Lords has its own Code of Conduct for Members of the House of Lords.

46. *The Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Act 2014* established a register of consultant lobbyists and a Registrar of consultant lobbyists to supervise and enforce the registration requirements. The main purpose of the lobbying provisions in the Act is to ensure that it is clear whose interests are being represented by consultant lobbyists who make representations to the government. The Act enhances transparency by requiring consultant lobbyist to disclose the names of their clients on a publicly available register and to update those details on a quarterly basis. Registering lobbyists are also required to disclose whether or not they subscribe to a publicly available code of conduct and, if so, where that code can be accessed. The register complements the existing transparency regime whereby government ministers and the permanent secretaries of government departments proactively disclose information about who they meet on a quarterly basis. Issues surrounding the register of consultant lobbyists and the publication of meetings of ministers and permanent secretaries with third parties and whether this system is sufficient to cover the broad spectrum of lobbying will be tackled under this report's section on contacts with lobbies and third parties.

47. On leaving office, ministers are prohibited from lobbying government for two years, as required by the Business Appointment Rules.¹⁶ They must also seek advice from the independent Advisory Committee on Business Appointments (ACoBA, see below for a full description) about any appointments or employment in the private sector they wish to take up within two years of leaving office. To ensure that ministers are fully aware of their future obligations in respect of outside appointments after leaving office, the *Business Appointment Rules* are appended to the Ministerial Code. Former ministers are expected to abide by the advice of the Committee, which will be published by the Committee when a role is announced or taken up.

48. In addition, ministers are expected to observe the *Seven Principles of Public Life* identified by the [Committee on Standards in Public Life](#) (the so-called Nolan principles, after the committee's chair of the time, Lord Nolan), which are appended to the Ministerial Code: selflessness; integrity; objectivity; accountability; openness; honesty; leadership. The Committee on Standards in Public Life will be described in the following section on the institutional framework. As part of the Ministerial Code, it is ultimately for the PM to decide whether a minister has breached one of these principles and what disciplinary action should be taken. The same principles are to be found in the aforementioned [Code of Conduct](#) for Members of Parliament and Code of Conduct for Members of the House of Lords, which apply concurrently to ministers who belong to one of the Houses of Parliament.

49. *The Code of Conduct for Special Advisers* sets out the principles and standards of behaviour expected of special advisers. It also describes those functions that they may and may not perform as part of their role in providing effective assistance to

¹⁶ Business Appointment Rules for Former Ministers: "8. As a general principle, there will be a two-year ban on former Ministers lobbying Government after they leave office. This means that a former Minister should not engage in communication with Government (Ministers, civil servants, including special advisers, and other relevant officials/public office holders) – wherever it takes place - with a view to influencing a Government decision, policy or contract award/grant in relation to their own interests or the interests of the organisation by which they are employed, or to whom they are contracted or with which they hold office. This does not prohibit contacts, including at a social or party political level which is unrelated to such lobbying. The Advisory Committee may reduce the two-year lobbying ban if they consider this to be justified by the particular circumstances of an individual application."

ministers/government. The government publishes an annual statement to Parliament setting out the numbers, names and pay bands of special advisers, the appointing ministers and the overall pay bill. Special advisers are also required to declare details of gifts and hospitality. Government departments publish, on a quarterly basis, information about gifts and hospitality received by their departmental special advisers and details of special advisers' meetings with newspaper and other media proprietors, editors and senior executives.

50. As set out in the *Code of Conduct for Special Advisers*, special advisers are not permitted to exercise any power in relation to the management of any part of the Civil Service, except in relation to another special adviser. Neither can special advisers direct ministers, who are only accountable to the PM and Parliament and the public. However, in order to enable special advisers to work effectively, government departments may allocate civil servants to provide support of a non-political nature. Special advisers are able to give direction to such civil servants in relation to their day-to-day work for them and their views should be sought as an input to performance appraisals on the basis that these are written by other civil servants. However, they are not involved in the line management of civil servants or in matters affecting a civil servant's career such as recruitment, promotion, reward and discipline, or have access to personnel files of civil servants.

51. All civil servants, including the highest ranks, are subject to the *Civil Service Code*. The basic civil service values, as mentioned previously, are integrity, honesty, objectivity and impartiality. As laid down in both the Ministerial Code and the Code of Conduct for Special Advisers, ministers and special advisors should not place civil servants with whom they work in a position where they would risk breaching their political impartiality.

52. In addition, the *Cabinet Manual* has been produced to provide a source of information for ministers and officials alike on the laws, conventions and rules that affect the operation and procedures of the government. It covers a wide range of matters concerning the structure of government and conduct of government business, including the powers of ministers, ministerial conduct, collective cabinet decision-making, the role of ministers and officials, the role of permanent secretaries, and the role of special advisers.

53. The GET notes that rules governing the conduct of ministers in government have no statutory basis. That said, the Civil Service Code, which applies to civil servants working in government, has a statutory basis in the Constitutional Reform and Governance Act 2010 and a number of practical, detailed codes have been adopted to provide guidance as to the obligations of persons working in government. The GET welcomes the existence of these comprehensive codes spelling out matters connected with the conduct expected of all pertinent post-holders covered by the notion "PTEFs", i.e. ministers, special advisors and senior civil servants (to the extent these are covered by this report). This forms a solid framework for the conduct of officials representing the government. The dynamics and continuity of these codes, which develop over time, has been addressed above (see paragraph 43). At the same time, the authorities should consider exploring whether giving a statutory basis to the basic Codes of Conduct would not improve their effectiveness, including for sanctions to be imposed in case of breaches. The issue of disciplinary action and sanctions in the event of a breach of codes of conduct is examined in paragraphs 129-134.

Institutional framework

54. The Central Propriety and Ethics team of the Cabinet Office is staffed by civil servants, whose primary role and function is to update and maintain the respective Codes of Conduct for ministers, special advisers and civil servants and to advise on their application. This team also oversees the declaration of ministers' interests process, and acts as a sponsor unit that can provide assistance to the Independent Adviser on Ministers' Interests, the Advisory Committee on Business Appointments and the Committee on Standards in Public Life (see below description of these bodies). It co-ordinates regular transparency publications relating to ministers and special advisers, including for ministers: gifts and hospitality received, overseas travel, meetings with external organisations and senior media figures. In respect of special advisers its role is limited to gifts and hospitality received and meetings with senior media figures. The team is staffed by two senior civil servants - a Director General and a Deputy Director, supported by three staff. It has an annual budget in the region of approximately GBP 250 000 (approximately EUR 283 500). This is mostly accounted for by staff costs, but with some expenditure on external publications. As part of the civil service, this team is ultimately accountable to the Cabinet Secretary, the Minister for the Cabinet Office and the PM.

55. The Independent Adviser on Ministers' Interests was established in 2006. The Adviser's primary functions are (i) to provide advice to individual ministers and their departmental permanent secretaries, including how to best avoid potential conflicts between ministers' private interests and their ministerial responsibilities; (ii) to investigate – when the PM, advised by the Cabinet Secretary, decides this would be appropriate – allegations that an individual minister may have breached the Ministerial Code of Conduct. The Independent Adviser is a personal appointment by the PM, and is accountable to the PM. Although the Independent Adviser investigates upon request of the PM, he/she does so independently, i.e. receiving no instructions as to how the investigations should be carried out.

56. The Advisory Committee on Business Appointments (ACoBA) is an independent advisory non-departmental public body, whose sponsoring department is the Cabinet Office. ACoBA's primary role is to provide independent advice on the application of the Business Appointment Rules on outside appointments to ministers and the most senior civil servants (director general level and above, and equivalents) after they leave office. That advice is published. The Committee comprises eight members, including the Chair appointed by and accountable to the PM. The Committee Chair, may appear – and has appeared – before the Parliamentary Select Committees to give evidence on the work of the Committee. All members are appointed for a single non-renewable term of five years. Three members are political appointees – nominated by the Conservative, Labour and Liberal Democrat political parties – and a further five are independent members, appointed following fair and open competition, in accordance with the Commissioner for Public Appointment's Code of Practice. The Committee is supported by a small secretariat staff. It has an annual budget in the region of GBP 218 000 (approximately EUR 244 000).

57. The Joint Anti-Corruption Unit (JACU) was created in 2015 to oversee policy coordination between departments and agencies and implementation of international and domestic commitments. JACU has been responsible for a dedicated Inter-Ministerial Group (IMG) on Corruption, providing coordinated governance on anti-corruption at the political

level. The IMG has brought together Ministers and heads of operational agencies to oversee delivery of anti-corruption commitments and set the direction for the government's domestic and international anti-corruption activity.¹⁷ JACU's preventative role comes from its convening power both across government and through its engagement with business and civil society groups. JACU also delivered the London Anti-Corruption Summit in May 2016.

58. The Anti-Corruption Champion is a personal appointment of the PM. The Champion is supported by JACU in overseeing the government's response to both domestic and international corruption. The main elements of the role are to scrutinise and challenge the performance of departments and agencies; to lead the UK's push to strengthen the international response to corruption and to represent the UK at relevant international fora; and to engage with external stakeholders, including business, civil society organisations, parliamentarians, and foreign delegations making sure that their concerns are taken into consideration in the development of government anti-corruption policy. Since the role was created in 2004, there have been six Champions. The most recent, stepped down at the last general election and his replacement is currently being considered. The GET recognises the potential importance of the role of the Anti-Corruption Champion and regrets that the post has remained vacant since June 2017.

59. The Committee on Standards in Public Life (CSPL) advises the PM on ethical standards across the whole of public life in the UK. It was established in 1994 and its first report established *The Seven Principles of Public Life* (see paragraph 48). It monitors, reports and makes recommendations on all issues relating to standards in public life. This includes not only the standards of conduct of holders of public office, but all those involved in the delivery of public services. The Committee is an independent, advisory non-departmental public body, accountable to the PM, but it is not founded in statute. Its secretariat, support and budget are sponsored by the Cabinet Office. Its annual budget is approximately GBP 284 000 (approximately EUR 322 220). The objective of the CSPL is to promote and maintain ethical standards in public life through monitoring standards issues and risks across the United Kingdom (by invitation in the devolved areas), conducting inquiries and reviews and making practical and proportional recommendations; researching public perceptions on standards issues relating to specific areas of concern. The Committee comprises eight members, including the Chair: three political members and five independent appointed by, and accountable to, the PM. The Committee Chair, may – and does – appear before Parliamentary Select Committees to give evidence on the work of the Committee. All members are appointed for a single non-renewable term of five years. Three members are political appointees; nominated by the Conservative, Labour and Liberal Democrat political parties; and a further six are independent members, appointed following fair and open competition, in accordance with the Commissioner for Public Appointment's Code of Practice.

60. Executive action is also scrutinised by Parliament. The government of the day is primarily responsible to Parliament for its day-to-day actions. This function is exercised through a variety of mechanisms, including the select committee system, Parliamentary questions, oral and written statements, and debates in both Houses and the Parliamentary Commissioner for Administration. All government legislation goes through Parliament and government ministers have a duty to Parliament to account and to be held to account, for

¹⁷ In addition, JACU represents the UK Government at the G20 Anti-Corruption Working Group, UN Convention Against Corruption (UNCAC), and the OECD's Anti-Bribery Working Group.

the policies, decisions and actions of their departments and agencies. Since 1979, the House of Commons has a select committee following each government department. The GET notes that Parliament scrutiny over the government expenditure and daily business is extensive and can cover the conduct of ministers.

61. The GET takes note of the institutional framework put in place in connection with the ethical conduct and integrity of PTEFs. None of these institutions are statutory, but they are presented as independent mechanisms, although ultimately accountable to the PM. The GET does not question their independence in relation to the way they carry out their tasks, but cannot disregard the fact that their role is to provide guidance and advice to the PM, who is the ultimate “judge”. The GET does not call into question that the PM would have the last say in relation to ministers and other top officials of the government, but it would appear that in the UK the autonomy of several of these institutions is somewhat reduced by the fact that they are all answerable to the PM.

62. Furthermore, while the existence of mechanisms to supervise the interests and integrity of ministers and special advisers, with the Central Propriety and Ethics team and the Independent Adviser on Ministers’ Interests, and post-employment restrictions, with ACoBA, are positive features, the procedures in place do not lead in practice to any sanctions, which undermines the practical efficiency of the system. The GET wishes to stress that overall the system in place to supervise the ethical conduct of PTEFs in the UK would benefit from more autonomous institutions, able to decide of their own initiative on whether to investigate and ensuring as much transparency as possible. This is further dealt with below (see paragraphs 129-134 for the Independent Adviser on Ministers’ Interests and paragraphs 107-121 for ACoBA).

Awareness

63. The principles and standards of behaviour expected of ministers, as set out in the Ministerial Code, are provided to ministers on appointment to the ministerial office. They will also have a discussion on appointment with the Director General of the Central Propriety and Ethics team (see above) and their departmental permanent secretaries who will brief them on their obligations, particularly in relation to managing private interests alongside their ministerial role. Both the Permanent Secretary and the Propriety and Ethics team act as on-going sources of advice on propriety issues for as long as the minister remains in office.

64. As set out above, departmental permanent secretaries and the Central Propriety and Ethics team in the Cabinet Office act as on-going sources of advice and guidance on propriety issues and the standards expected. This advice can be accessed directly, or via the minister’s private office; it being an informal and on-going process.

65. Special advisers meet upon appointment the Director General of the Central Propriety and Ethics Team to draw their attention on their obligations in line with the Code of Conduct for Special Advisers. The Director General will go through their interests and also determine their salary. In case of dispute, the matter will be raised with the appointing minister or, if needed, directly the PM.

66. Departmental civil servants can revert to their permanent secretary, who in turn can go to the Cabinet Secretary for information and advice. In addition to other training

opportunities, a practical handbook for civil servants working with ministers is regularly updated by Civil Service Learning (CSL); it provides guidance to civil servants on all aspects of their work with ministers, including ethics in practice.¹⁸

Transparency and oversight of executive activities of central government

Access to information

67. The GET learnt that there are numerous public documents available that provide insight into how government operates, including in its decision-making while referring to the Ministerial Code (which sets out the standards of behaviour expected of ministers and the principle of collective responsibility allowing ministers to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached); the Cabinet Manual (which acts as a guide to the laws, conventions and rules on the operation of government); the list of Cabinet committees (setting out the various sub-committees of Cabinet and their membership); and the List of ministerial responsibilities (being updated quarterly in respect of the ministers' portfolios).

68. Decisions by ministers may be announced publicly, but discussions relating to those decisions remain confidential. This is because the principle of collective responsibility requires that the privacy of opinions expressed in Cabinet and ministerial committees, including in correspondence should be maintained. Ministers need space for free and frank discussion, an exchange of views and for the provision of advice on a confidential basis.

69. First and foremost, the Freedom of Information Act 2000 makes it always possible for members of the public to request specific information relating to particular decisions of the government and /or ministers, etc. This Act provides public access to information held by public authorities, including the government departments. There are, however, a number of exemptions from the general duty to disclose information. These are set out in the Act, and include, amongst others an exemption from disclosure where information relates to the formulation of government policy and an exemption where disclosure of information would prejudice the effective conduct of public affairs. The application of these exemptions is subject to a public interest test. There are also mechanisms to appeal decisions made under this legislation via the independent Information Commissioner in the first instance and then the Courts.

70. The GET welcomes that the UK has in place a solid legal framework for providing transparency of public affairs under the Freedom of Information Act. At the same time, the GET notes that allegations of lengthy procedures for obtaining information under the Freedom of Information Act would merit that the authorities examine the issue further, on the basis of factual information.

Transparency of the law-making process

71. Before being introduced in Parliament, any proposed legislation will normally have been preceded by the usual stages in policy development, i.e. a "green paper" or

¹⁸ Civil Service Learning, Policy Profession, Working with Minister – A Practical Handbook on advising, briefing & drafting, available at www.civilservant.org.uk/library/2015_Working_with_Ministers.pdf

consultation document (which sets out proposals rather than a commitment to action); a “white paper” (major policy proposals set out in more detail) and one or two rounds of public consultation. The green and white papers are published.

72. Most draft bills are considered either by a select committee in the House of Commons or by a joint committee of both Houses (Commons and Lords). Once a committee has scrutinised and reported on the draft bill the government considers the committee’s recommendations and may make alterations to the bill before it is formally introduced to Parliament. Pre-legislative scrutiny can help to improve the quality of legislation and to ensure that Parliament and the public are more involved with and aware of the government’s plans for legislation.

73. Once legislation has been passed, the government has undertaken that ministers will (subject to some exceptions) publish a post legislative scrutiny memorandum within three to five years of the law being passed. This includes a preliminary assessment of how the Act is working in practice, relative to its original objectives. The relevant Parliamentary select committee may use the memorandum to decide whether or not to carry out a more complete post legislative inquiry. Post legislative scrutiny is in addition to other post-enactment work, which might include internal policy reviews, but may be combined with reviews commissioned from external bodies or post-implementation reviews as part of the Impact Assessment process, carried out by the department with responsibility for the Act.

Third parties and lobbyists

74. Summary details of ministerial meetings with external organisations and any gifts and hospitality received and details of overseas travel are published on a quarterly basis. Brief information is also published of meetings of special advisers with media representatives.

75. This is complemented by the statutory register of consultant lobbyists which was established by the *Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Act 2014*. At the time of writing there are 131 active registrants. Once a consultant lobbyist ceases to be a lobbyist they remain on the register (in italics) for twelve months before they are removed from the public Register. The number of lobbyists on the register changes frequently as consultant lobbyists join and leave. This has increased transparency by requiring people who are paid to lobby the government on behalf of others to disclose their clients on a publicly available register. Consultant lobbyists are required to declare whether or not they subscribe to a code of conduct. The Statutory Register is overseen by the independent *Registrar of Consultant Lobbyists*. The Registrar has a range of statutory powers and sanctions to help deliver his/her obligation to monitor compliance and deal with those who do not comply. The Registrar can impose a civil penalty notice of up to GBP7 500/EUR 8 500 (in 2016, three penalties for not paying subscription fees were handed). To date, civil penalty notices have been issued when consultants had not registered prior to lobbying.

76. According to the authorities, the system as it currently exists is based, on the one hand, on the transparency of meetings between ministers and firms and other organisations, who operate with in-house lobbyists, and, on the other hand, the setting up of a registry for consultant lobbyists in order to identify their clients.

77. Lobbying is an important part of the government and parliamentary process in the United Kingdom. For this reason, the GET considers it extremely important to have a robust framework to ensure transparency of lobbying not only of ministers but also of special advisers and senior civil servants, considering their involvement in government policy making. The system in place presents several positive aspects which are in line with European standards¹⁹ and contribute to better transparency: making ministerial meetings with third parties public and running a register of consultant lobbyists. However, in practice, this only gives a very incomplete picture of the lobbying going on in respect government and the GET identifies several shortcomings.

78. With respect to meetings with lobbyists, the GET was told that while the information on meetings between ministers or permanent secretaries and third parties does indicate with whom the meetings took place (or on whose behalf), the purpose of the meetings is as a rule too generic to give any idea of the topics discussed during these meetings.²⁰ Furthermore, the GET was informed that members of the public who wish to seek additional information on such meetings would have to make a request under the Freedom of Information Act. In such cases, there can be significant delays in obtaining information. The paucity of information coupled with reported delays in processing such requests suggests that by the time the full information is known it may no longer be current. Moreover, there is no available record of meetings between lobbyists and special advisers (only meetings with media representatives are disclosed) and senior civil servants, other than permanent secretaries. Given the role of departmental staff in advising ministers on technical issues and their privileged access to ministers, they are likely to be actively targeted by lobbyists. Therefore, **GRECO recommends making more information available regarding meetings held by ministers, special advisers and senior civil servants with third parties, including lobbyists, and that such entries contain a sufficient amount of detail on matters discussed, to identify the specific subject matter(s) of the discussion and the specific purpose or intended outcome of the discussion.**

79. Furthermore, the above-mentioned statutory register of consultant lobbyist (see paragraph 75) does contribute to shedding light on lobbying of ministers and permanent secretaries, in line with European standards,²¹ but the GET can but note that this undoubtedly gives a very partial view of the total number of lobbyists actively engaging with the government, as most big firms and organisations (which do not specialise on lobbying as such) will employ in-house lobbyists who will therefore not be required to register, rather than consultant lobbyists. Further, the GET was informed that a quarter of the registrants do not declare any client. This is linked to the fact that consultant lobbyists must only declare clients when they contact ministers and permanent secretaries on their behalf, but not special advisers or other senior civil servants in government. In view of the foregoing, **GRECO recommends that the scope of the registry of consultant lobbyists be reconsidered, with a view to i) extending the existing registry of consultant lobbyists (to include third parties**

¹⁹ For instance, the Committee of Ministers Recommendation CM/Rec(2017)2 Regulations on lobbying activities in the context of public decision making (<https://rm.coe.int/legal-regulation-of-lobbying-activities/168073ed69>).

²⁰ See Ministry of Defence Ministerial Meetings, January – March 2017. This information was published on 30 June 2017. There are 56 reports of meetings. In 48 of the entries the purpose of the meeting is described in generic terms as either “To discuss defence issues” (42); “To discuss industrial policy (4); Routine industry engagement (2).

²¹ In particular, the Committee of Ministers Recommendation CM/Rec(2017)2 Regulations on lobbying activities in the context of public decision making.

operating with “in-house lobbyists”) and ii) including the lobbying of special advisors and senior civil servants involved in policy making.

Control mechanisms

80. To promote good governance, all central government organisations in the United Kingdom are expected to have internal audit functions whose primary purpose is to provide independent and objective assurance to the senior management of those organisations and that their systems and controls are fit for purpose. That assurance should cover core systems, governance and risk management processes including financial and operational controls. Internal audit functions report directly to the most senior official of the organisation, often permanent secretaries of government departments or chief executives of other public bodies. By reporting directly to the head of a public organisation, an internal audit function is able to give honest and clear information without being influenced by other senior staff to manage the message.

81. Most United Kingdom government expenditure is audited by the National Audit Office (NAO) with similar audit arrangements operating with regard to devolved expenditure in Scotland, Wales and Northern Ireland. The NAO and its counterparts in Scotland, Wales and Northern Ireland scrutinise public spending on behalf of Parliament and the devolved legislatures respectively. The NAO audits the financial statements of all United Kingdom central government departments, agencies and other public bodies, and reports the results to Parliament. Its work comprises value for money studies, local audit, investigations, support to Parliament and international activities. The Auditor General leads the NAO and is an officer of the House of Commons. He or she and the staff of the National Audit Office are independent of the government. They are not civil servants and do not report to ministers. The Comptroller and Auditor General’s primary role is to certify the accounts of all government departments and many other public sector bodies. However, s/he also has statutory authority to examine and report to Parliament on whether departments and the bodies have used their resources efficiently, effectively and with economy. On behalf of the Comptroller and Auditor General, the NAO carries out some 60 to 70 enquiries into government spending annually leading to a similar number of public hearings by the Committee of Public Accounts. By way of example, in a report on managing the estate of the Department of Defence, the NAO found that, in entrusting the maintenance of their estate to private contractors, the Department of Defence had failed to set contractual safeguards to ensure savings are achieved from operational improvements rather than one-off cost-cutting.

82. In addition to the spending scrutiny carried out by the National Audit Office, the longstanding House of Commons committee, the Committee of Public Accounts, also undertakes on behalf of Parliament detailed and forensic examinations of government spending. Their examinations are often based on National Audit Office value for money reports which involve accounting officers, who are the most senior officials of government departments and organisations, appearing before the Committee to assure them that public funds have been spent legally and with propriety in line with Parliament’s expectations and standards. The Committee has a workload of some 60 intensive hearings a year, producing a similar amount of Committee reports. The Committee of Public Accounts does not challenge the policy rationale behind government spending. As a result, only officials who are not ministers appear before the Committee. Because of its non-partisan, cross party character,

the recommendations of the Committee of Public Accounts are highly regarded, according to the authorities, and governments of all political persuasions have, over the years, implemented around 90 per cent of them. Similar scrutiny is carried out by the respective public accounts committees in the Scotland, Wales and Northern Ireland legislatures.

83. Moreover, scrutiny of the executive power is one of the core functions of *Parliament*. Members of both Houses (Commons and Lords) can table questions - for oral or written answer – to ministers. Similar arrangements operate in the legislatures of Scotland, Wales and Northern Ireland. In response to these questions, ministers are obliged to explain and account for the work, policy decisions and actions of their departments.

84. Each House appoints select committees to scrutinise the work of government and hold it to account. In the House of Commons, a public bill committee may also take written and oral evidence on the bill before it. Ministers (and civil servants) usually appear before these committees to give evidence when they are invited to do so and supply written evidence when it is requested.

85. When Parliament is in session, the most important announcements of government policy should, in the first instance be made to Parliament. Every government bill goes through both Houses of Parliament. All government expenditure must be authorised by Parliament. Parliament, through the National Audit Office and the Committee of Public Accounts, monitors and audits government expenditure to ensure that it is consistent with what Parliament has authorised and that it is spent wisely on behalf of taxpayers.

86. The audited annual report and accounts of each government department are presented to Parliament each year. These present the Department's aims, activities, functions and performance. All government expenditure must be authorised by Parliament.

Conflicts of interest

87. As stated above, ministers are usually also MPs and as such have a duty to represent their constituencies. In such a system, a careful line is to be drawn between individuals acting in their capacity as a constituency MP as distinct from their ministerial role. This obligation to keep their roles as ministers and constituency members separate is laid down in the *Ministerial Code* which is referred to below.

88. Under the terms of the Ministerial Code, ministers must ensure that no conflict arises, or could reasonably be perceived to arise between their public duties and their private interests, financial or otherwise. The Ministerial Code states that they should be guided by the general principle that they should either dispose of the interest giving rise to the conflict or take alternative steps to prevent it. A statement covering ministers' relevant interests is published twice yearly.

89. Where appropriate, the minister will meet the Permanent Secretary and the Independent Adviser on Ministers' interests to agree action on the handling of his/her interests. Ministers must record in writing what action has been taken, and provide the Permanent Secretary and the Independent Adviser on Ministers' Interests with a copy of that record. The personal information which ministers disclose to those who advise them is treated in confidence.

90. As regards civil servants working in government, the *Civil Service Code* makes it clear that civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Where an actual or perceived conflict of interest arises between a civil servant's official duties and responsibilities and their private interests, they must make a declaration to senior management so that the best way of proceeding can be determined.

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

91. When they take up office, ministers must declare all of their interests.²² They should give up any public appointments they may hold. Where exceptionally it is proposed that such an appointment be retained, the minister should seek the advice of their Departmental Permanent Secretary and the Independent Adviser on Ministers' Interests.

92. Ministers should not normally accept invitations to act as patrons or otherwise offer support to pressure groups, or organisations dependent in whole or in part on government funding. There is normally less objection to a minister associating themselves with a charity, but should take care that in participating in any fund-raising activity they do not place, to appear to place themselves under an obligation.

93. The Ministerial Code (sections 7.7-7.8) is clear that ministers must scrupulously avoid any danger of an actual or perceived conflict of interest between their Ministerial position and their private financial interests. They should be guided by the general principle that they should either dispose of the interest giving rise to the conflict or take alternative steps to prevent it. In reaching their decisions they should be guided by the advice of their Permanent Secretary and the Independent Adviser on Ministers' Interests. Where exceptionally it is decided that a minister can retain an interest, the minister and the department must put processes in place to prohibit access to certain papers and to ensure that the minister is not involved in decisions and discussions relating to that interest.

94. Ministers' decisions should not be influenced by the hope or expectation of future employment with a particular firm or organisation.

95. The Code also makes clear that ministers in the House of Commons must keep separate their roles as minister and constituency MPs. If constituency and department interests coincide, they would, on the advice of the department's permanent secretary (i.e. the department's most senior civil servant, see below) and the Director General of the Central Propriety and Ethics Team, move the decision to another minister. Under the *Ministerial Code*, ministers are advised to take particular care in cases relating to planning applications in their constituencies or other similar issues. For instance, a minister will not sign off the building of a school in their constituency. They must make it clear to the responsible minister that they are representing the views of their constituents and confine themselves to comments which could reasonably be made by those who are not ministers.

²² Ministers must declare all of their interests. From that, a list of those interests relevant to their role is then published (where these interests have been retained).

Contracts with state authorities

96. Entering into direct contracts with state authorities is not permitted. Ministers must ensure that no conflict arise, or could reasonably be perceived to arise between their public duties and their private interests, financial or otherwise.

Gifts

97. The Ministerial Code clearly states that ministers should not accept any gift or hospitality which might, or might reasonably appear to, compromise their judgment or place them under an obligation (Section 1.2 (g)). The same applies if gifts etc. are offered to a member of their family.

98. Gifts of small value, currently this is set at below GBP140 (approximately EUR157), may be retained by the recipient. Gifts of a higher value should be handed over to the department for disposal unless the recipient wishes to purchase the gift, reduced by GBP140. Ministers can (and do on occasion) return gifts. Gifts given to ministers as constituency MPs or members of a political Party fall within the rules relating to the Register of Members' and Lords' Interests. A minister cannot be attending an event where a gift may be given, in two capacities as minister and MP – if they are attending as minister, this takes precedence.

99. Departments publish, on a quarterly basis, details of gifts received and given by ministers valued at more than GBP140. Departments also publish details of hospitality received by ministers in a ministerial capacity. Hospitality accepted as an MP or Peer should be declared in the Registers of Members' and Lords' Interests.

100. The majority of gifts above GBP140 are stored by departments and where appropriate some are put on display. Departments will ensure that, where necessary, gifts received are registered in the National Assets Register in accordance with departmental rules. Some gifts may be disposed of and the money is paid back to departmental funds.

Misuse of public resources

101. Ministers are provided with facilities at government expense to enable them to carry out their official duties. These facilities should not generally be used for party political or constituency activities. A particular exception is recognised in the case of official residences. Where ministers host party or personal events in these residences it should be at their own or party expense with no cost falling to the public purse.

102. Official facilities and resources may not be used for the dissemination of material which is essentially party political.

103. Ministers must ensure that they always make efficient and cost effective travel arrangements. Official transport should not normally be used for travel arrangements arising from Party or private business, except where this is justified on security grounds.

Misuse of confidential information

104. The Ministerial Code requires that ministers are as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000.

105. The principle of collective responsibility requires that ministers are able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This in turn requires that the privacy of opinions expressed in Cabinet and ministerial committees, including in correspondence, should be maintained.

106. Ministers may not, while in office, publish in a private capacity on their ministerial experience (books, etc.). Former ministers intending to publish their memoirs or the like are required to submit the draft manuscript in good time before publication to the Cabinet Secretary.

Post-employment restrictions

107. On leaving office, ministers are prohibited from lobbying government for two years. They must also seek advice from the independent Advisory Committee on Business Appointments (ACoBA) about any appointments or employment they wish to take up within two years of leaving office. To ensure that ministers are fully aware of their obligations in respect of outside appointments after leaving office, the *Business Appointment Rules for Ministers* are annexed to the Ministerial Code. These rules seek to counter suspicion that: the decisions and statements of a serving minister might be influenced by the hope or expectation of future employment with a particular firm or organisation; an employer could make improper use of official information to which a former minister has had access; or there may be cause for concern about the appointment in some other particular respect.

108. ACoBA considers each request about an appointment or employment on its merits against specific tests relating to the following:

- to what extent, if at all, has the former minister been in a position which could lay him or her open to the suggestion that the appointment was in some way a reward for past favours;
- has the former minister been in a position where he or she has had access to trade secrets of competitors, knowledge of unannounced government policy or other sensitive information which could give his or her employer an unfair or improper advantage; is there another specific reason why acceptance of the appointment or employment could give rise to public concern on propriety grounds directly related to his or her former ministerial role.

109. ACoBA will need to balance any points arising under these tests against the desirability of former ministers being able to move into business or other areas of public life, and tailor its advice, including what, if any, restrictions might be appropriate, accordingly. ACoBA gave advice on 104 applications from former ministers in 2016-17.

110. *Business Rules for Civil Servants* aim to avoid any reasonable concerns that (i) civil servants might be influenced in carrying out their duties by the hope of future employment with a particular firm or in a specific sector; (ii) former civil servants might improperly exploit privileged access in government or sensitive information; (iii) a particular firm might gain an improper advantage by employing someone who has had access to unannounced or proposed developments in government policy, or commercially valuable or sensitive information about any competitors.

111. Before accepting any new appointment or employment whether in the United Kingdom or overseas, which they intend to take up after they have left the Civil Service, individuals must consider whether an application under the Rules is required. The process for giving approval differs depending on the applicant's seniority. For Permanent Secretaries and directors general (grade SCS3) and special advisers of equivalent standing, an application must be made for any new appointment or employment that individuals wish to take up during the two year period after leaving office. All applications at this level must be referred by the relevant government department to ACoBA. ACoBA provides advice to the PM, who makes the final decision.

112. For senior civil servants of a lower grade (SCS2 and SCS1) and special advisers of equivalent standing, an application is only required during the period of two years if the circumstance of the person matches one of the triggers set out in paragraph 13 of the *Business Rules for Civil Servants* (e.g. involved in the development of a policy or regulations affecting their prospective employer, official dealings with their prospective employer, new employment involving government lobbying, etc.). Decisions on applications at this level are made by the relevant Department. For government civil servant of a lower grade (below SCS) and special advisers of equivalent standing, an application is only required for one year if the person's circumstances matches one or more of the triggers set out in aforementioned paragraph 13 of the Rules and decisions on applications are also made by the relevant Department.

113. The Rules makes it a requirement for departments to publish summary information on the advice given to senior civil servants whose applications have not been dealt with by ACoBA. There were 140 applications from former Crown servants to ACoBA in 2016-17.

114. From the outset, the GET considers the existence of an independent body providing advice to ministers and other senior officials on employment upon leaving government as a valuable addition to the system aimed at ensuring the proper implementation of post-employment rules. It is also positive that its advice is made public. However, the GET notes that ACoBA is not a statutory body and its efficiency suffers a number of shortcomings which would need to be addressed to make full use of its potential.

115. As the post-employment rules have no statutory basis for ministers, the system is largely reliant on self-regulation, integrity and reputation. Reputational damage for failure to comply with advice given by ACoBA is in effect the only sanction ACoBA has at its disposal. ACoBA cannot impose sanctions for failure to comply with its advice or in cases where officials fail to apply before accepting positions in the private or other sectors after leaving office. In this respect, the GET considers as illustrative of the shortcomings of the current mechanism the recent case of the former Chancellor of the Exchequer who only informed ACoBA after accepting the position of editor in chief with a newspaper, shortly after leaving

government. ACoBA was therefore placed before a fait accompli. Moreover, ACoBA does not have the remit to supervise compliance with the advice given and to identify cases where its advice has not been sought and should have.

116. The GET was told that ACoBA has been experiencing an increase in the number of applications it receives, which puts pressure on administering the system. Furthermore, the GET notes that the UK Civil Service Workforce Plan launched in July 2016 sets out goals to make it easier for civil servants to move in and out of the civil service and spend part of their career in the private and other sectors. This policy would suggest that there will be an increasing number of cases for ACoBA to consider. In connection with this situation, ACoBA was previously criticised by the House of Commons Public Administration Select Committee for failure to process applications within its published deadlines. Even if in its latest annual report, ACoBA indicates that 75% of applications were dealt with within deadlines, this remains a risk if the number of applications continues to increase. The greater permeability between the civil service and private sector should go hand in hand with robust rules to ensure complete transparency and safeguards to avoid an unhealthy system of revolving doors.

117. When it comes to special advisors, the GET notes that civil service and special adviser pay bands do not mirror each other exactly, and therefore it is for departments to decide whether special advisers' applications should be referred to ACoBA. The GET considers that it would be advisable that, given the political nature of their appointments, all special advisers apply to ACoBA before taking employment in the private or other sectors upon leaving the civil service.

118. More generally, the GET notes that there is regular media concern over revolving doors practices involving former ministers, senior civil servants and special advisors alike.²³ In its Annual Report 2015-2016, ACoBA underlined an "increasing tendency for individuals to seek to take up appointments in business or other sectors with which they have had dealings while in public office".²⁴

119. The GET therefore considers that the efficiency of the system would benefit in post-employment rules and ACoBA being given a statutory basis. Rules should be applicable to ministers, special advisors and all senior civil servants involved in policy development. Furthermore, the effectiveness of the system would call for ACoBA to be capable of imposing sanctions in case of breach of post-employment rules, which presupposes that it is also in a position to check whether its advice has been sought and followed.

120. The GET welcomes the fact that the United Kingdom has in place a multifaceted system to prevent and manage conflicts of interest in respect of post-employment situations, consisting of quarantine rules in combination with a reporting and advisory mechanism, providing public transparency. This system has a clear potential for effective control; however, in view of the preceding paragraphs, there is room for improvements.

²³ "Public Servants, Private Paydays – How ministers and mandarins make life after government pay – A Revolving Doors Special", Private Eye, Issue 1426, 2 September 2016

²⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539186/ACoBA_2015-16_Annual_Report_final.pdf

121. In view of the foregoing, **GRECO recommends i) that the status, remit and powers of the body advising on business appointments of former ministers and senior civil servants (ACoBA) be strengthened, with accompanying resources to carry out effectively its functions; ii) that individuals with top executive functions are not only required to apply for advice before taking up employment in the private or other sectors upon leaving office but also that breaches of rules on post-employment restrictions are subject to adequate sanctions.**

Declaration of assets, income, liabilities and interests

Declaration requirements and review mechanism

122. In accordance with the Ministerial Code (section 7.3), on appointment (and updated every six months), ministers must provide a full list in writing of all their interests. The list should also cover interests of the minister's spouse or partner and close family which might be thought to give rise to a conflict. From this full declaration, a list of interests that are considered relevant to their portfolio is extrapolated and these interests are published. This process is done in consultation with the Director General of Propriety and Ethics and the Independent Adviser on Ministers' Interest. The list of interests to be declared includes the following details:

- Financial interests: It indicates where financial interests are held in a blind trust or similar blind management arrangement;
- Directorships and shareholdings: shareholdings are not listed where they are de minimus²⁵ in nature;
- Investment property: in line with the Registers of Interests in the two Houses of Parliament, property owned and/or occupied by ministers for their own use is not included in the List;
- Public appointments;
- Charities and non-public organisations: In addition to those listed, ministers may have other associations not relevant to their ministerial interests with charities or non-public organisations, for example, as constituency MPs;
- Compliance with legal obligations;
- Liabilities: nature of the liabilities and name of any relevant financial institution or individual through which an asset or liability is held and whether they are discretionary or self-managed.

123. Declarations are to be made to (i) the Permanent Secretary of the minister's department. Individual declarations, and a note of any action taken in respect of individual interests, are then passed to (ii) the Cabinet Office Central Propriety and Ethics team (see paragraph 54) and (iii) the Independent Adviser on Ministers' Interests to confirm they are content with the action taken or to provide further advice as appropriate. It is worth noting that ministers are also members of the Houses of Parliament and as such are also subject to

²⁵ There is no set amount for the de-minimus. This is because it will vary depending on each minister and his/her ministerial role. A small amount of shares (GBP 50/EUR 56) for a Secretary of State in a department with ministerial responsibility in that area might be - or perceived to be - a conflict. However, a larger amount held by a Whip (with the rank of minister and responsible for ensuring parliamentary discipline amongst majority parliamentarians) might be acceptable as they do not have the same departmental portfolio and are not taking decisions. It is not only to avoid a financial conflict but also the perception of a conflict.

declaration rules applicable to parliamentarians: their financial interests are published by the House of Commons and the House of Lords.²⁶

124. As already mentioned, ministers are also to declare all their interests every six months and, on the basis of these declarations, a list of those interests which are considered relevant to their ministerial role is updated and published twice yearly. The GET notes that what constitutes “relevant interests” is normally discussed between the minister and the Propriety and Ethics team on the basis of the field of responsibility of the minister in question. Interests relevant in respect of one ministry are not necessarily relevant to be published in respect of another minister. Considering that government decisions are taken collectively, the GET had some doubts as to this system, as it appears to be a procedure “filtering” declarations in respect of what can be seen as relevant. Such a system may lead to a rather narrow approach in respect of potential conflicts of interest. This is somewhat balanced out by the regular up-dating of the declarations and the publication of relevant interests (twice per year). Access to the content of the declarations can also be requested under the Freedom of Information Act. Nevertheless, the GET sees a need to assess the full effectiveness of the current system. In view of the foregoing, **GRECO recommends that the authorities clarify and consider broadening the scope of what are to be considered “relevant interests” in ministers’ declarations of interests for the purpose of their publication.**

125. Decisions in respect of potential violations of the rules on declarations of interests are taken through contacts between the minister, permanent secretary, the Director General of Propriety and Ethics and the Independent Adviser on Ministers’ Interests. Most issues are solved through dialogue. Where necessary a minister will have to dispose of those interests that could raise a conflict of interest with their ministerial role. However, in case there is a dispute, it is referred to the PM, who is the ultimate judge of the standards of behaviour expected of a minister and the appropriate consequences of a breach of those standards. If there is an allegation about a breach of the Ministerial Code, and the PM, having consulted the Cabinet Secretary feels that it warrants further investigation, s/he may refer the matter to the Independent Adviser on Ministers’ Interests. The GET learnt that, in practice, it does not appear to reach that stage very often. Since his appointment in 2006 there has only been one investigation by the Independent Adviser. This is further dealt with in paragraphs 129-134.

126. Moreover, special advisers are to report their interests upon appointment to the Central Propriety and Ethics team, which will scrutinise and advise them as to what steps need be taken in relation to their interests. In case of dispute, the appointing minister will be contacted and, as a last resort, the PM.

Accountability and enforcement mechanisms

Criminal proceedings and immunities

127. The GET welcomes the fact that ministers and other PTEFs are treated in the same way as any other citizen under the law; there are no special arrangements, proceedings or

²⁶ See [GRECO Evaluation Report on the United Kingdom as part of the Fourth Evaluation Round](#) (2013), paras 39-41.

immunity. Furthermore, the Ministerial Code makes clear that there is an overarching duty on ministers to comply with the law (paragraph 1.2). In addition, all public office holders, including PTEFs, can be prosecuted for misconduct in a public office.²⁷ Whenever there are allegations that a PTEF has committed a criminal offence, this has to be reported to the PM.

128. The authorities stated that no criminal proceedings had been brought against PTEFs in respect of corruption offences in the last ten years.

Non-criminal enforcement mechanisms

129. The non-criminal enforcement system is described above under review mechanisms in respect of declarations (see paragraph 125). It applies in the same way for any misconduct of a non-criminal nature, i.e., the PM is the “ultimate judge” and ministers can only stay in office for so long as they retain the confidence of the PM. The PM can use a range of sanctions for a breach in the Ministerial Code. It is for the PM to decide what is an appropriate sanction for a particular case. Ultimately it can mean a minister losing their post, depending on the seriousness of the breach. In other less serious cases, the PM may have a formal discussion with a minister, remind them of their obligations under the Code and may require the minister to make a public apology for particular actions. In case of conflict of interest, a minister may be required to move to another post, or be asked to step aside from a particular policy area or decision - but this is all considered on a case by case basis and there is no definitive list, rather it will depend on the particular circumstances of a specific situation.

130. The Independent Adviser on Ministers’ Interests is mandated to investigate, when the PM, advised by the Cabinet Secretary, so decides, allegations that individual ministers may have breached the [Ministerial Code of Conduct](#).

131. Over the years there have been allegations of breaches of the Ministerial Code in a number of cases, which the PM, with advice from the Cabinet Secretary and the Independent Adviser on Ministers’ Interests, has considered but concluded there had been no breach: these include in 2011, then Secretary of State for Defence; in 2012, then Secretary of State for Culture Media and Sport, also in 2012 the then Government Chief Whip and in 2014, the former Home Secretary and former Secretary of State for Education. Moreover, in 2012 the Independent Adviser on Ministers’ Interests published a report of his investigation into a minister.²⁸

132. The GET takes the view that the Independent Adviser on Ministers’ Interests is not truly independent of government. Although the Independent Advisor can direct investigations without receiving instructions from the PM, s/he cannot investigate on his/her own initiative and can only investigate if requested to by the PM. Not only is the Independent Adviser appointed by the PM but s/he also reports to the PM and can only suggest sanctions to be enforced at the PM’s sole discretion. It is noteworthy that there has

²⁷ Misconduct in public office is an offence at common law triable only on indictment. It carries a maximum sentence of life imprisonment. It is an offence confined to those who are public office holders and is committed when the office holder acts (or fails to act) in a way that constitutes a breach of the duties of that office (for more information: http://www.cps.gov.uk/legal/l_to_o/misconduct_in_public_office/#a02).

²⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62352/Alex-Allan-report.pdf

so far only been one investigation since the Independent Adviser was appointed in 2006, and it did not lead to any sanction. As time is essential to carrying out an investigation into a possible breach of the Ministerial Code, the fact that the Independent Adviser cannot act of his/her initiative means that in practice the matter is often resolved without him/her being involved; the authorities specify that facts will be established internally, often by the Cabinet Propriety and Ethics team. The GET was informed of several cases where ministers found to be in breach of integrity standards were simply asked to leave government, as a result of having lost the confidence of the PM, or resigned, without any investigation having been led by the Independent Adviser to establish the breach and decide on sanctions and following which no further procedure was engaged against them. The GET was informed of at least one minister asked to resign by reason of a significant conflict of interest, without any investigation by the Independent Adviser or sanction against him, and who was reappointed minister a couple of years later.

133. The GET is of the view that the public interest would be better served if the Independent Adviser was to investigate and report on suspected breaches of the Ministerial Code even where the matter has ultimately been resolved (resignation, disposal of the conflicting interests, etc.). The Independent Adviser's role might also be extended to include breaches of their respective Codes of Conduct by Special Advisers and Permanent Secretaries. Such a role would require structural independence/autonomy from government and the PM and provision of adequate resources. Furthermore, the position of the Independent Adviser would be reinforced with a statutory function and a requirement to report directly to Parliament. In such a way, the Independent Adviser's findings and reports would inform future conduct by other ministers, special advisers and permanent secretaries.

134. In view of the above, **GRECO recommends reviewing the status, role and remit of the Independent Adviser on Ministers' Interests to include the interests of ministers, special advisers and permanent secretaries and to strengthen his/her independence/autonomy, to investigate, where s/he considers it appropriate to do so, on his/her own initiative, into ethical conduct or conflicts of interest.**

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability of law enforcement/police authorities

Overview of various law enforcement authorities

135. Within England and Wales, there are 43 police forces, 41 of which are formed on a geographical basis. They fall within the policy and legislation for which the Home Office and, ultimately, the Secretary of State for the Home Department have responsibility.

136. There are three additional police forces covering the United Kingdom as a whole, i.e. the British Transport Police, the Ministry of Defence Police and Civil Nuclear Constabulary who each have specialist functions. Policing in Scotland and Northern Ireland are devolved matters and therefore within the competence of the Scottish Government and the Northern Ireland Executive respectively.²⁹

137. The National Crime Agency's (NCA) mission is to lead the UK's fight to cut serious and organised crime. As a law enforcement agency, it works in partnership with a range of bodies, including police forces, to investigate internal corruption function. Its legal basis is the Crime and Courts Act 2013.

138. In addition, the chief constables of all police forces in England, Northern Ireland and Wales represent their respective forces in the National Police Chiefs' Council (NPCC). The NCA is also represented by its Director General. The purpose of the NPCC is to co-ordinate the operational response across the police service to criminal threats. The NPCC deals with counter corruption/integrity across the police service in the National Counter Corruption Advisory Group (NCCAG) and a Chief Constable has been designated as Lead on anti-corruption police action. Moreover, every police force has a counter-corruption unit.

Organisation and accountability of selected law enforcement authorities

139. This report focuses on the Metropolitan Police Service (MPS) and the National Crime Agency (NCA).

The Metropolitan Police Service (MPS)

140. The MPS is the territorial police force responsible for law enforcement in Greater London (together with the City of London Police). It also has national responsibilities, such as co-ordinating and leading on UK-wide national counter-terrorism matters. At 31 December 2016, the MPS had 44 036 staff (31 076 police officers), around 33% of whom were women (26% female officers, including the head of the MPS). It brings together 32 Operational Command Units which coincide with the limits of the London Boroughs. It is the largest police force in the country. The MPS is led by the Commissioner of the Metropolis through a management board with a series of separate command units for each business area.

141. The Directorate of Professional Standards is the MPS' internal body dealing with complaints and misconduct. It has approximately 300 staff. Its staff is selected on the basis

²⁹ Police Scotland and the Police Service of Northern Ireland

of enhanced vetting, previous complaints history and suitability for the role and specific training is provided. The Directorate is an autonomous command within the MPS with oversight of the designated appropriate authority (i.e. the Commissioner of the MPS for the great majority of staff³⁰), and independent oversight through the Mayor's Office for Policing and Crime (MOPAC), the Independent Police Complaints Commission (IPCC) and Her Majesty's Inspectorate of Constabulary (HMICFRS) (see below).

142. The Home Office is the lead government department for crime, counter-terrorism and police and has responsibility for the 43 police forces in England and Wales including the MPS. While the 43 forces are operationally independent of the Government, they are accountable to elected Police and Crime Commissioners for the police force area (or the MOPAC for the MPS, and the City of London Corporation in the case of the City of London Police). The MPS Commissioner, as head of the MPS, is accountable in law for exercising police powers and is held to account for the delivery of policing by the Mayor of London. The Home Secretary also has a specific role regarding the MPS functions which go beyond policing London. The Government is working on an Anti-Corruption Strategy as a follow-up to the UK Anti-Corruption Plan (2014). This Strategy is to be published by the end of 2017

The National Crime Agency (NCA)

143. The NCA³¹ is not a Police Force but a non-ministerial government department. At 6 March 2017 the NCA had 4 288 staff, around 38% of whom were women (including, its current Director-General). It is accountable to the Home Secretary (who determines the strategic priorities) and through the Home Secretary to Parliament. NCA officers operate under the direction and control of a Director General, who is operationally independent, i.e. taking operational decisions without instructions. The Home Secretary is responsible for setting the strategic priorities for the NCA.

144. The Director General chairs a Management Board ("the NCA Board") composed of civil servants (ordinary and *ex-officio* members). Its functions are both advisory – setting overall direction for the agency within the scope of the Home Secretary's strategic priorities – and supervisory – scrutinising performance and challenging the agency on delivery.

145. Special NCA units for preventing and investigating cases of internal corruption or other related misconduct are the Anti-Corruption Unit and the Professional Standards Unit, both of which are part of the wider Standards & Security Department. Those teams are distinct but cooperate closely. The Standards and Security Department as a disciplinary body is independent from the rest of the organisation and reports directly to the Deputy Director General. Its work is governed by the NCA [Complaint and Misconduct Regulations](#) which are publicly available on the NCA website.

³⁰ The Mayor's Office for Policing and Crime (MOPAC) is the appropriate authority for handling complaints and disciplinary action against the Commissioner of the MPS and the Deputy Commissioner or Assistant Commissioners of the MPS exercising the functions of the Commissioner in accordance with specific statutory or regulatory provisions.

³¹ <http://www.nationalcrimeagency.gov.uk/>

Oversight bodies

146. Both the MPS and the NCA³² are subject to oversight by the [Independent Police Complaints Commission \(IPCC\)](#).³³ The key functions of the IPCC include providing independent oversight of the police complaints system, considering appeals regarding police investigations into complaints and carrying out its own independent investigations into the most serious and sensitive matters relating to the conduct of the police. New measures in the Policing and Crime Act 2017 will, when they enter into force, fundamentally reform the governance of the IPCC, which will be renamed “The Independent Office for Police Conduct” (IOPC). These reforms, alongside new powers in the Act, are designed to streamline decision-making, improve accountability and deliver greater objective scrutiny (see also paragraphs 230-241).

147. [Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Service \(HMICFRS\)](#) is charged with inspecting the efficiency and effectiveness of police forces in England and Wales.³⁴ It carries out an annual, all-force inspection which assesses police efficiency, effectiveness and legitimacy. HMICFRS also inspects the efficiency and effectiveness of the National Crime Agency (NCA). In addition the Home Secretary can also request that HMICFRS inspects the NCA in respect of a particular matter.

Access to information

148. The public can access information on the MPS and the NCA through their websites, by contacting relevant departmental bureaus such as the IPCC or, in the case of the NCA, corresponding directly with the Director General’s office or by contacting the Public Information Compliance Unit (PICU).

149. As regards the MPS, information can be accessed through requests made under the Freedom of Information Act 2000, according to which public information not routinely published can be obtained from public authorities. However, the NCA does not fall within the scope of the Freedom of Information Act. The UK authorities justify that by the highly sensitive type of information handled by the NCA, which concerns serious offences carried out by criminal networks, and underlines that the Crime and Courts Act places an obligation on the Director General of the NCA to publish information about the exercise of NCA functions and other matters relating to the NCA.

150. However, the GET was told that this sometimes extends to normal policing tasks the NCA takes over from other agencies or police forces, which would normally come under this Act. The GET is of the view that it would be advisable to establish a clear distinction between those functions which are excluded from the application of the Freedom of Information Act by reason of the sensitivity of the information concerned, from other police action akin to that undertaken by police forces, which should be subject to the requests under the Freedom of Information Act. The GET acknowledges, however, that there are a number of

³² Since the NCA covers the whole of the United Kingdom, there are three bodies that provide oversight of the conduct of NCA officers: the Independent Police Complaints Commission/IPCC (England and Wales), the Police Investigation Review Commission (Scotland) and the Police Ombudsman Northern Ireland.

³³ The IPCC is governed by the Police Reform Act 2002 (“the 2002 Act”) and regulations made under it.

³⁴ Cf. section 54 of the Police Act 1996

reasons for the current state of play and that this issue has been subject to proper debate in Parliament.

Public trust in law enforcement authorities

151. The IPCC produces regular public confidence surveys which look at public perceptions and awareness of the police, the complaints system, and the IPCC. According to the [2016 IPCC report](#) people are more likely to say that they would complain about poor treatment by the police, and are more confident about their complaint being handled fairly. A great majority of the public also continue to believe that more serious incidents – such as deaths in custody or *allegations* of serious corruption – should be independently investigated. This result is consistent with statements by interlocutors met by the GET about the risk that internal corruption cases might not be handled with the necessary impartiality.

152. According to surveys carried out by HMICFRS, the majority of respondents did not feel that corruption was a problem in the police (61% of respondents in the latest 2012 survey).³⁵ However, interlocutors met by the GET reported instances where complaints were not recorded; this was reportedly linked to the heavy workload of the competent officer. On the other hand, interlocutors acknowledged that the civil service and police are genuinely trying to ensure that rules are applied in practice.

Trade unions and professional organisations

153. Within the MPS there are four recognised trade unions for police staff, namely the Public & Commercial Services Union (PCS), Unite the union, Prospect and the First Division Association (FDA) (a union for senior managers and professionals in public service). PCS is by far the largest of those unions, having nearly 7 000 registered members, split almost equally between female and male members.³⁶

154. Integrity policies are consulted and agreed with the Trade Unions. Centrally, PCS attends the Professional Standards Strategic Committee which is the oversight meeting which brings together all disciplinary and integrity leadership within the MPS.

155. Police officers cannot join a trade union, but the Police Federation of England and Wales (PFEW) is the staff association for police constables, sergeants and inspectors. It represents 122 000 rank and file officers.

156. There are three recognised unions for NCA staff to opt to become members, namely the National Crime Officers Association (NCOA), the PCS and the FDA.

³⁵ HMIC “Integrity matters: An inspection of arrangements to ensure integrity and to provide the capability to tackle corruption in policing” (2015), available at <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/police-integrity-and-corruption-2015.pdf>

³⁶ There are also several staff associations, but none of them enjoy any role in relation to integrity policies.

Anti-corruption and integrity policy

Anti-corruption and integrity policy, ethical principles and rules of conduct

157. The MPS is a civilian organisation built on “policing by consent” which implies a close connection between the police and the public. The authorities stress that it is therefore essential that the MPS retains the confidence of the public in its ability to keep them safe, to take decisive action against offenders, and to do so with integrity.

158. Ethical principles and rules of conduct are enshrined in the Standards of Professional Behaviour and in the [College of Policing \(2014\) Code of Ethics](#) which is published on the internet. Those standards originate from the [Police \(Conduct\) Regulations 2012](#) (for police officers) and the Police Staff Council Joint Circular 54 (for police staff). Breaches of the Code of Ethics – which has been designed as a code of practice – do not always involve misconduct or require disciplinary proceedings. In misconduct proceedings against police officers, the formal wording of the Police (Conduct) Regulations 2012 is used. The Directorate of Professional Standards is the guardian of professional standards for the MPS.

159. The authorities indicate that integrity is promoted through the MPS in conjunction with the Standards of Professional Behaviour and Code of Ethics. Within the Code of Ethics the [National Decision Making Model](#) is used as best practice for rationalising decision making and constantly reviewing the available information. The GET is of the view that this is a good example of how to give practical meaning to the standards contained in the Code of Ethics.

160. Furthermore, the authorities refer to the policy document “[Integrity Assurance Standard Operating Procedure](#)” which sets out the procedure for the consideration of adverse judicial findings, taint and adverse information³⁷ (reporting lines, action at the Directorate of Professional Standards-Integrity Assurance Unit, further process/Management Meeting, records, etc.).

161. The [NCA’s mission statement](#), the values and behaviour for the agency and its officers are set out in its Annual Plan. There are several codes, policy and procedures in place including complaint and misconduct regulations. The NCA [specific codes/policies](#) have been in place since the inception of the NCA in 2013; they are published on the NCA website. The NCA Code of Conduct incorporates the Civil Service Code of Conduct which has been in place since 2010.³⁸ There is an additional Code of Conduct for NCA Board Members. The policies and codes are enforceable. Breaches are considered as misconduct or gross misconduct under the NCA Complaint and Misconduct Regulations.

162. [Measures](#) in place for preventing corruption and promoting integrity include vetting at entry; vetting reviews and aftercare; mandatory drugs testing; pre-employment checks conducted for promotions or interdepartmental moves; audit of systems (intelligence databases, internet use, etc.); whistleblowing policy and confidential reporting hotline;

³⁷ An *adverse judicial finding* is to be understood as a finding by a court that a police witness has knowingly misled the court. Individuals can be tainted through criminal conviction, a finding at a misconduct hearing or a relevant formal written warning, etc. Where there is reliable information to suggest that the MPS cannot, with confidence, put forward an individual to undertake a particular role, or serve in a particular capacity, such *information* may be considered *adverse*.

³⁸ NCA are part of the Civil Service.

corruption risk identification; mandatory reporting on potentially compromising individuals (criminals, private investigators, journalists, etc.), on secondary business interests and on gifts and hospitality; supervisor training on handling and managing complaints and misconduct; reviews of departments by the Audit Team based on risk (e.g. HUMINT); monthly case reviews by Operational Security Advisors to identify and manage issues relating to corruption; Suspicious Activity Reports (SARs) relating to law enforcement flagged and sent direct to the relevant anti-corruption unit.

163. The GET welcomes the existence of the College of Policing Code of Ethics and other standards contained in various policy documents to provide guidance on ethical and integrity matters. The profusion of policy documents was explained by the increased expectations of the public regarding the conduct of police staff. The GET takes the view that it would nonetheless appear advisable to reduce the number of policy documents so as to gain in clarity and avoid any inconsistencies.

Risk management measures for corruption prone areas

164. The Strategic Assessment of Law Enforcement Corruption in the UK which was drafted by the NCA and covers all law enforcement organisations in the UK provides an overview of corruption threats along with case studies.

165. The Police service carries out analysis as part of their strategic assessment regarding emerging themes, threats and risk areas. As part of its investigations, the IPCC carry out their own reviews, can identify areas of concern and advise the police. HMICFRS carry out thematic inspections covering policing in general. Information is channelled and processed through the National Police Chiefs' Council (NPCC) and, more particularly, its National Counter Corruption Advisory Group (NCCAG). Based on this information as well as on HMICFRS reviews, the NPCC agrees on triennial National Strategies. The current strategy to address the issue of police officers and staff who abuse their position for a sexual purpose or to pursue an improper emotional relationship. National Strategies are approved by the Home Office and apply to all police forces. The GET welcomes this risk-based approach whereby areas requiring particular attention are identified in order to address existing risks of corrupt behaviour within the police service.

166. The authorities indicate that there are no specific stereotypes of a particular service or situation that is more corruption prone than others; however, management of situations where there is vulnerability have additional control measures. These areas tend to involve access to money, property, supply of services or an abuse of authority for financial or sexual gain. Management processes have been introduced to ensure the integrity of those areas of business (including specific toolkits, supervision and review).

167. As part of the Professional Standards Department a Risk Identification Team has been established to identify officers who are at higher risk from a corruption vulnerability perspective and to consider mitigating strategies.

Handling undercover operations and contacts with informants and witnesses

168. The legislation in the UK associated with Undercover Officers and Informants is the Regulation of Investigatory Powers Act 2000. It refers to Covert Human Intelligence Sources

(CHIS) and Undercover Operatives (UCO) as Relevant Sources. The deployment of CHIS and UCOs is closely regulated and subject to authorisation, review and cancellation procedures.

169. The above regulations are complemented by secondary legislation (Statutory Instrument 2788) which provides an update on additional oversight to undercover operatives, by the Codes of Practice for Covert Human Intelligence Sources of December 2014, by guidance provided by the College of Policing (Authorised Professional Practice)³⁹ and by NCA policies and operating procedures (which are sensitive and access controlled). Covert surveillance is overseen by the Office of Surveillance Commissioners which is a body independent of the government and other authorities and funded separately by the Home Office.

170. The Ministry of Justice's Witness Charter and Victims Code as well as the NCA's Victims' Code Policy and Policy on Witness Management (classified document) include rules for officers' contacts with witnesses and victims.

Advice, training and awareness

171. The College of Policing was established as a company limited by guarantee and "owned" by the Home Secretary on 1 October 2012 as the professional body for policing. It is independent from Government and tasked with setting professional standards, sharing what works best, acting as the national voice of policing, and ensuring police training and ethics. Its work covers three aspects: knowledge, education (accredited standards, professionalising police) and standard-setting based on knowledge. It employs about 580 staff. The College co-operates closely with the Home Office, the HMICFRS and the relevant NPCC.

172. Police training in the UK is not standardised or centrally managed. Thus the College of Policing does not give basic training courses but develops training standards such as the National Police Curriculum. That said, it does provide training related to sensitive issues, leadership training, continuous professional development courses. It has also prepared an e-learning platform.

173. The College has developed packages for integrity training, but those are not mandatory for every police forces' training. Interlocutors said that lectures/training modules on integrity and the Code of Ethics are not part of every police force's induction course. The College is currently designing a one-week training course to avoid inconsistent approaches when dealing with complaints and misconduct, as recommended by the HMICFRS.

174. In the MPS, training on ethics, conduct and conflicts of interest is organised through internal training in partnership with the MPS Directorate of Professional Standards regarding critical threats and trends. It is included in the induction training and a two-hour module is compulsory for Sergeants, Inspectors, Chief Inspectors, Superintendents and Chief Superintendents on promotion. There is a separate input for senior officers on the Strategic Command Course. In 2016, around 880 officers were trained. MPS officers also take part in Continuous Professional Development Days.

³⁹ Those documents are published on the [College's website](#).

175. In the NCA, a Professional Standards Department presentation is given on the induction training for all new staff. On average two-day courses are organised twice per month. Two staff from the Department are seconded to deliver the input. The training tackles, *inter alia*, vulnerabilities and puts an emphasis on reporting of wrongdoing. The NCA management course for line managers also deals with ethics. Furthermore, NCA Anti-Corruption managers assist the College of Policing in the delivery of tactical and operational counter corruption courses, which the NCA's Anti-Corruption Unit staff have attended. Whilst there is no further recurrent training, staff are reminded of integrity related issues by way of the Intranet and weekly bulletins.

176. The GET notes that, during the last HMICFRS inspection on integrity,⁴⁰ good examples of training were reported, but shortcomings regarding the efficiency of training on ethical behaviour were also highlighted. While interlocutors met by the GET confirmed that there is good knowledge of the content of the Code of Ethics amongst the police forces, it was also reported that not all staff have a firm grasp on how to use it or implement it in their day-to-day work. The GET considers it important to adopt a human rights-based approach when connecting standards with practice in the framework of training programmes, in order to underline how corrupt behaviour impacts directly on the public's enjoyment of their human rights. Therefore, **GRECO recommends that further efforts be made to ensure that training on integrity and ethics be better linked to the day-to-day work of police staff and be practice-oriented.**

177. MPS officers can obtain advice on those matters through the Intranet Policy pages, from Supervisors, Professional Standards Champions⁴¹ based in each Borough Operational Command Unit, the Directorate of Professional Standards, the College of Policing Code of Ethics, Federation/Union representatives based locally, legal services of the MPS or of the Federation/Union.

178. Insofar as advice for NCA officers is concerned, at the end of each performance reporting year (31 March) line managers in discussion with staff complete a Performance Development System checklist; this references all the above policies and ensures that staff are aware of their duty to report any changes and declare any related issues. Moreover, the NCA publishes corruption/misconduct cases in an anonymised way, contributing to awareness-raising.

179. From the information provided by several interlocutors, the GET is under the firm impression that there is no clearly signposted procedure for police officers to avail themselves of confidential advice on integrity and ethical matters other than seeking information from internal websites and turning to their line managers. The HMICFRS's findings that police staff have a good grasp of integrity standards but sometimes encounter difficulties in translating them into their daily work demonstrates the need for an easier access to personal, confidential advice.

⁴⁰ HMIC "Integrity matters: An inspection of arrangements to ensure integrity and to provide the capability to tackle corruption in policing" (2015), available at <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/police-integrity-and-corruption-2015.pdf>

⁴¹ Professional Standards Champions must be at least of Chief Inspector rank and are appointed by the Operational Commanders. Their role appears to be connected to reports of police misconduct.

180. The GET was told that, in case of ethical dilemma, the step normally taken would be to turn to the line manager or close colleagues. The GET considers that this is not in all circumstances the most appropriate step as staff members may not feel comfortable raising certain ethical dilemmas with their direct superior, who is also responsible for their annual appraisal, or colleagues. The MPS Directorate of Professional Standards and Professional Standard Champions can in principle also provide advice but it does not appear to be a clearly defined function, known to the staff.

181. The GET considers that adequately trained persons of trust should be designated in each borough operational command unit, possibly connected to the Directorate of Professional Standards, and in the NCA to provide confidential advice upon request, and that all police staff be made aware of this possibility. This role could be given for instance to Professional Standards Champions or a designated person with the Professional Standards Unit present in each Borough Operational Command Unit. Therefore, **GRECO recommends that trained persons of trust be appointed within the Metropolitan Police Service (MPS) and the National Crime Agency (NCA) – as well as all police forces and other law enforcement agencies – in order to provide confidential advice on ethical and integrity matters.**

Recruitment, career and conditions of service

Appointment procedure and promotion to a higher rank

182. The appointment of MPS officers is governed by Police Regulations. Officers are appointed by the Commissioner. The selection process is managed through HR to ensure compliance with the required legislation. An appeal process is part of the advertised process which is circulated nationally and dealt with by a panel made up of qualified persons with Police Federation and/or Union representation. Police staff comprises those with both permanent and temporary contracts. Induction training includes courses on the code of ethics and professional standards. The renewal of temporary contracts is a matter for the relevant business group. Regarding career advancement, candidates reaching the required standard are selected on merit after succeeding in a promotion process. The Commissioner is appointed following a selection process undertaken by the Home Office. The Mayor of London is consulted in this process. The College of Policing with the authority of the Home Office has published guidance on standards for recruitment. They are not defined in law.

183. Vetting is undertaken in the MPS by the Vetting Unit on all new employees to recruitment vetting (RV) and counter-terrorism check (CTC) levels. Integrity checks extend to former employment at the MPS or other law enforcement agencies and other relevant work references. Checks are also carried out on family members and associates, either declared on vetting forms or found during the process. It also includes financial checks to ensure that candidates can demonstrate a history of responsibility managing their finances with integrity and honesty (checking bank accounts, in particular). When applying, candidates have to give their consent to such checks. All intelligence/information obtained via police indices (including financial information) are assessed against a Vetting Code of Practice. The code was published by the College of Policing in October 2017 and replaced all previous guidance. It applies to all police forces in England and Wales. The code is supported by Authorised Professional Practice (APP) on Vetting which sets out the technical processes and detail. RV/CTC level vetting needs to be renewed every 10 years.

184. Some roles, with access to the more sensitive police information, require enhanced vetting levels, i.e. Management Vetting (MV), Enhanced Management Vetting (EMV), Security Checks (SC), Security Check Enhanced (SC (enhanced)) and Developed Vetting (DV). Developed vetting, for the highest security levels, is performed by the Ministry of Defence. These clearances must be renewed frequently (SC (enhanced) every 5 years; MV, EMV and DV clearance every 7 years; and SC every 10 years).

185. Staff are meant to declare any change of personal circumstances (such as marrying, remarrying, entering into a civil partnership, setting up a stable unmarried relationship which includes living with someone as a couple or, for DV, the arrival of new “co-residents” such as a lodger or flatmate, etc.). Wrong or missing declarations can lead to the loss of the vetting status. At any stage intelligence can come to light regarding an employee, which triggers a vetting review. If any adverse findings are discovered, they are passed on to the Directorate of Professional Standards to be handled as possible conduct matters.

186. The GET was informed during the on-site visit that while recruitment vetting is carried out effectively by the MPS, re-vetting often does not take place as it should or with great delay, which is reportedly linked to insufficient resources. The GET is concerned that this represents a serious weakness of the system, all the more so that there have been reports of criminal organisations trying to infiltrate the police forces. Vetting at regular intervals is an indispensable tool to prevent attempts to corrupt officers already in post and who through their daily work may be in contact with people linked to criminal networks. The GET was told that the issue of insufficient re-vetting was expressly identified by HMICFRS as problematic within the MPS. Therefore, **GRECO recommends that adequate measures be taken and sufficient resources allocated in order to ensure that within the Metropolitan Police Service (MPS) vetting takes place not only during staff recruitment but also at other regular intervals during its staff members’ careers.**

187. All NCA staff, except those seconded to the NCA and contractors, are civil servants and therefore bound by the civil servant employment rules. Recruitment follows the principles of the Civil Service Commission which is to recruit on merit following a fair and open competition; subsequent internal moves are managed by NCA policy and procedures. Substantive appointments do not need renewing. Appointments are managed through the recruitment department with the exception of those at senior civil service level which are managed separately by the Deputy Director HR office. The head of service is appointed by the Home Secretary. Contractors supply contingent labour on interim contracts. These tend to be for specialist skills that are required short term. The NCA Commercial team oversees their engagement.

188. Employees of the NCA must be vetted at Security Check Enhanced level, corresponding to regular access to secret material, to obtain employment. Their references are checked and any employee who comes from another law enforcement body is also checked with the relevant Professional Standards team from the officer’s former employer. In addition, whenever employees move from one part of the NCA to another they are also subjected to internal checks to ensure the suitability of that candidate. This includes checks with the Anti-Corruption Unit.

189. There are no tests to pass on ethics, but candidates are asked diverse questions in interview some of which may relate to ethics. Moreover, the induction course deals with vulnerabilities and the NCA Code of Conduct. The Anti-Corruption department can run an intelligence led integrity test on officers at any time in their career but there are no random integrity tests. The GET considers that it would be advisable to address matters of ethics and integrity in a more explicit way in both the recruitment procedure and the induction training rather than simply touched upon as seems to currently be the case.

190. If the NCA decides that a candidate is not suitable for a role, they do not have to reveal the reasons to the candidate. The latter can challenge that decision which ultimately can end up in court.

Performance evaluation

191. At the MPS, local line managers annually evaluate the performance of all members of staff with regard to local and corporate objectives with their own self-development forming part of the evaluation. Positive performance can be rewarded with lateral or promotion development opportunities. Negative performance can lead to development plans, written improvement notices and ultimately dismissal. Officers can challenge the outcome before the second line manager.

192. At the NCA, performance evaluation is conducted through an annual performance development system by the line manager and the counter signing manager. These are carried out every six months and are monitored centrally on a computer based system. If officers are identified as underperforming they would not expect to receive a pay rise that year. However, if their performance exceeds that that is expected they may be given a non-consolidated pay bonus. There is no pay progression within the current pay structure. If an officer receives an under-performance rating s/he is not allowed to apply for either a lateral move or promotion. Officers can appeal to their manager or their countersigning manager and ultimately to HR. According to the authorities it is rare that the line managers' decisions are overturned unless they agree to it.

Rotation

193. At the MPS, there is no specific tenure or rotation process. Specialist posts have a minimum tenure period to reflect the investment in training and selection.

194. Similarly, rotation is limited in the NCA. It depends on Deputy Director's moving staff within their command or if they are able to agree with another Deputy Director they can move staff across to other Deputy Directorates. According to the authorities this is rare. Lateral and promotion moves are advertised as vacancies and subject to open competition for appointment. The NCA has identified long deployment periods as a corruption risk factor but handling this is in some cases difficult due to the specialisation required by certain posts.

Termination of service and dismissal from office

195. Possible reasons for dismissal of law enforcement officials are incapability, gross misconduct, redundancy, statutory ban (not relevant to NCA) and some other substantial reason (usually vetting status cannot be met). From March 2015 to March 2016, 52% of all

hearings on gross misconduct by an officer led to dismissal and 19% in a final warning (out of total 310 cases).⁴²

196. Dismissed officers/staff can be debarred from re-entering the police. The College of Policing's Disapproved Register became effective from 1 December 2013. Since then police forces are providing details of those officers who have been dismissed from the service or who either resigned or retired while subject to a gross misconduct investigation where there would have been a case to answer. The GET welcomes this new procedure creating a list of dismissed police officers in order to avoid their re-entering at a later point or another place the police service.

197. With the New Policing and Crime Act 2017 former members of police forces and former special constables can be subject to disciplinary proceedings. The GET welcomes the introduction of a new possibility of disciplinary proceedings against police officers after they have left the forces. The Policing and Crime Act 2017 also introduces a new Statutory Police Barred List to replace the Disapproved Register. It will also be held by the College of Policing and will prevent any other police force or specified law enforcement body from appointing a person who has been barred from policing.

Salaries and benefits

198. At the MPS, gross annual salaries range from GBP 24 204 /approx. EUR 28 000 (starting salary of a Constable) to GBP 80 352 /approx. EUR 94 500 (starting salary of a Chief Superintendent). In addition, officers are entitled to London Allowances and possibly half rate rent or housing allowance. All information on Police officer allowances is publicly available on different websites including the HM Government's.

199. At the NCA, gross annual salaries range from GBP 17 866 /approx. EUR 21 000 (minimum pay for grade G6 – starting grade) to GBP 63 709 /approx. EUR 72 000 (minimum pay for grade G1 –). In addition, the benefits package for NCA officers includes, for example, end of year “exceeded” award payments, the civil service pension scheme, etc.

Conflicts of interest

200. The authorities stress that conflicts should be raised and dealt with through supervision and appropriate action. At the level of the MPS, the procedures for identifying and resolving conflicts of interest include vetting, Standard Operating Procedures (SOP) of the Directorate of Professional Standards and Integrity Assurance SOP. They cover issues such as business interest, additional employment and political activities, declarable associations, gifts and hospitality.

201. The NCA Code makes it clear that officers must not carry out an external business interest in a way that could compromise their impartiality, risk them becoming improperly beholden to a person or organisation or create a conflict of interest with their role in the NCA. They are obliged to inform their line manager or other appropriate individual at the earliest opportunity if they have any real or perceived conflict of interest. More detailed rules for Board Members are contained in the NCA Board Code of Conduct.

⁴² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/586508/police-workforce-sep16-hosb0217.pdf

202. Moreover, several NCA policies lay down specific declaration requirements with respect to business interests, secondary employment and political activity, gifts and hospitality, and association with potentially compromising individuals (see below in the following sections). If there is a possible conflict of interest, the NCA staff concerned is removed from the case giving rise to this conflict. Moreover, the solutions to conflict of interest situations are regulated and all decisions have to be documented.

Prohibition or restriction of certain activities

Incompatibilities and outside activities

203. MPS officers have to declare business interests, secondary employment and political activity, as outlined in the Business Interest Special Operational Procedure (SOP). The Management Support Unit of the Directorate of Professional Standards deal with business interest applications. Disclosures are published on the internet. According to the Code of Ethics, officers can have business interests as long as those interests are authorised and there is no conflict with an individual's police work and responsibilities. Police officers must not take any active part in politics. Under the Police Regulations 2003, police officers are also barred from being members of certain specific organisations under regulations made concerning the Restriction on the Private Life of Members of Police Forces. At present police officers are specifically prohibited from being members of The British National Party; Combat 18; and the National Front.

204. At the level of the NCA, Policy SS21 (classified document) sets out the conditions and potential restrictions on business interests, secondary employment and political activity for those employed by the NCA. It also extends to interests of spouses and immediate family members. Officers are required to obtain authorisation for these activities as stipulated in the policy. Applications are to be made to the Standards and Security Department. Requirements for NCA Board Members, which are more severe (e.g. they should not be a member of any political party or undertake any political activity), are also covered in the NCA Board Code of Conduct.

Gifts

205. According to the MPS Gratuities Policy, staff must not accept gifts, hospitality or other benefits or services that would place them, or be perceived to place them, under an obligation or compromise their judgment and integrity – unless it can clearly be justified that to refuse would cause serious offence or damage working relations. All offers of gifts and hospitality, whether accepted or declined, are recorded in approved [gifts and hospitality registers](#) – maintained by the Management Support Unit of the Directorate of Professional Standards - which are published on the MPS website.

206. The NCA Code makes it clear that officers must not accept any gift or gratuity that could compromise their impartiality or create a conflict of interest. Requirements for NCA Board Members are also covered in the NCA Board Code of Conduct. More detailed rules and guidance are contained in NCA Policy SS15 on Gifts, Hospitality and the Bribery Act 2010 and the related Operating Procedure (classified documents). That policy is aimed at helping staff to decide whether gifts or hospitality should be accepted or not and when it is

appropriate to offer gifts or hospitality, establishing the procedure for recording and auditing any offer and receipt. Any offers of gifts or hospitality must be reported to the Professional Standards Unit of the Standards and Security Department. Failure to comply with the policy may render staff liable to misconduct or criminal proceedings.

Financial interests

207. MPS officers have to declare business interests, in line with the Business Interest SOP. Disclosures are published on the internet. According to the Code of Ethics, officers can have business interests as long as those interests are authorised and there is no conflict with an individual's police work and responsibilities (see also paragraph 217).

208. At the NCA, policy around holding financial interests is limited to officers at senior civil service level, including NCA Board Members, who are required to provide details to assess any conflict of interest. This is covered in Policy SS21 and the NCA Board Code of Conduct (see also paragraph 219).

Misuse of public resources

209. Misuse of public resources may constitute criminal offences such as Misconduct in Public Office, section 26 of the Criminal Justice and Courts Act 2015, or a disciplinary offence.

Third party contacts, confidential information

210. Contacts, outside the official procedures, with third parties who approach officers about cases under their purview may constitute criminal offences. Specific criminal offences of Misconduct in Public Office, section 26 of the Criminal Justice and Courts Act 2015, and the Perverting the Course of Justice and Bribery Act are examples of the potential offences committed.

211. The Code of Ethics applicable to MPS officers makes it clear that officers' membership of groups or societies, or associations with groups or individuals, must not create an actual or apparent conflict of interest with police work and responsibilities.

212. Furthermore, in accordance with the MPS Declarable Associations SOP (classified document), officers are to notify an association with a person (or group or organisation) with convictions or who are subject to criminal charges or subject of criminal intelligence etc. Officers' reports are reviewed and assessed for content, accuracy and risk. The Directorate of Professional Standards undertakes intelligence checks and a risk assessment. The Integrity Assurance Unit based within the Directorate of Professional Standards conducts the verification process regarding declarations of declarable associations and adverse information. Officers also have to declare [media contacts](#), which are registered and published; detailed guidance on officers' contacts with media is provided by the Media Policy Toolkit – Q&A (classified document).

213. NCA Policy SS12 and the corresponding Operating Procedure (classified documents) cover association with potentially compromising individuals. The policy is aimed at ensuring that NCA officers and contractors are aware of the potential risks and restrictions of

inappropriate associations, protecting and supporting them when such association is unavoidable, ensuring they are not discredited and preventing any interference with investigations or prosecutions. It regulates reporting and management of such association as well as the advice from the Standards and Security Department-Operational Security Group. Failure to comply with the policy may constitute a breach of the NCA Policy HR05 on discipline and misconduct.

214. Misuse of confidential information by MPS or NCA officers may fall under criminal law provisions of the Data Protection Act, Computer Misuse Act, or constitute Corruption and/or Misconduct in Public Office.

Post-employment restrictions

215. NCA Operating Procedure SS21 OP02 covers the authorisation of outside appointments following retirement or resignation from the NCA (and pre-cursors). Before accepting any new appointment or employment outside the public service, which they intend to take up in the first two years after leaving the NCA, all serving or former employees must consider whether an application is required as outlined in these operating procedures, in order to avoid any public suspicion of impropriety. Officers should approach the Standards and Security Department as soon as possible to inform them of their intention to take up an alternative appointment or employment and to seek advice on whether or not an application is required. The process for giving approval to take up outside employment depends on the seniority of the applicant.

216. There are currently no post-employment restrictions applying to former MPS officers and staff. However, from 1 January 2018, all Chief Officers in all police forces in England and Wales will have to provide notification of any post -service employment for a period of 12 months after leaving the police service. Chief Constables and Police and Crime Commissioners⁴³ will make recommendations based on whether there is a likely conflict of interest and all decisions will be published on police forces' websites. The GET is of the view that the possibility of expanding this procedure beyond Chief Officers should be explored. Therefore, **GRECO recommends considering the possibility of imposing post-employment restrictions on all police officers and staff leaving the Metropolitan Police Service (MPS).**

Declaration of assets, income, liabilities and interests

Declaration requirements

217. During the recruitment process, as part of the vetting process, the MPS requests three months' evidence of pay slips. Higher level vetting requires in depth financial information. For the purpose of vetting the partner, ex-partner in the last three years, children, siblings, parents, anyone who resides with the applicant and anyone declared by the applicant are included.

218. Throughout their career, MPS officers have to declare to the Management Support Unit of the Directorate of Professional Standards business interests, secondary employment and political activity in accordance with the Business Interest SOP, as well as offers of gifts

⁴³ A police and crime commissioner (PCC) is an elected official in England and Wales charged with securing efficient and effective policing of a police area

and hospitality (whether accepted or declined) in accordance with the Gratuities Policy (see above). [Disclosures](#) are published on the internet. Declarations on business interests and secondary employment must be submitted by officers on an annual basis and whenever changes to their situation occur. Those declarations must also cover business interests and employment of their spouse, civil partner or a relative who lives with them.

219. Basic financial information, including liabilities, assets and financial history, is requested for all applicants to NCA posts on a Pre-Employment Standards Check form. Officers and contractors are required to provide further financial details (including for household members and/or partners who share a financial responsibility with the officer) during the National Security Vetting process.

220. Furthermore, NCA officers at senior civil service level and Board Members are required to declare significant assets and financial interests to be assessed for conflict of interest as per Policy SS21 and the NCA Board Code of Conduct.

221. All NCA officers must declare the holding of posts and functions or engagement in outside activities, income from secondary employment, business interests, gifts/hospitality and other interests or relationships to Professional Standards/Standards & Security Department. The latter keep individuals' records. NCA officers at senior civil service level, including Board Members, are also required to report the holding of posts and functions, engagement in outside activities and other interests or relationships in relation to relatives/associates. NCA Board Members also declare to the NCA Board Secretariat, which keeps a Register of Interests. An abridged/redacted version of Board Members' declarations is published on the NCA's external website and updated regularly.⁴⁴

Review mechanisms

222. At the MPS, officers' declarations on business interests, secondary employment, political activity, gifts and hospitality are checked by the Management Support Unit of the Directorate of Professional Standards.

223. The relevant NCA policies are implemented by the Standards and Security Department. The authorities indicate that if inaccurate information is provided, investigation is carried out under the NCA's misconduct policies and consideration is given to the individual's security clearance/vetting status.

Oversight and enforcement

Internal oversight and control

224. Internal oversight with respect to MPS officers is governed by the statutory regime consisting of the Police (Conduct) Regulations 2012, Police (Complaints and Misconduct) Regulations 2012, the Police Reform Act 2002 and the Police staff Discipline SOP produced by the MPS Directorate of Professional Standards. The Home Office has also published Guidance on "Police Officer Misconduct, Unsatisfactory Performance and Attendance

⁴⁴ See <http://www.nationalcrimeagency.gov.uk/about-us/how-we-are-run/board-declarations>

Management Procedures".⁴⁵ In case of (suspected) misconduct, investigations are normally undertaken by the first line manager who may consider instigating a disciplinary review or investigation. If justified, s/he may then issue a first written warning or refer to the higher authority for review.

225. The Directorate of Professional Standards (DPS) deals with serious misconduct and gross misconduct investigations. It can also follow up on resolutions reached locally in borough operational command units. The MPS DPS selection process requires a willingness to be trained about police misconduct, undergoing consistent professional development and undertaking enhanced vetting while demonstrating high standards of professional behaviour throughout their work and life.

226. Misconduct is a breach of the Standards of Professional Behaviour and gross misconduct is a breach of those standards so serious that dismissal would be justified. Matters assessed as meeting the threshold for gross misconduct are taken to a misconduct hearing. Recently an independent Legally Qualified Chair from outside the organisation has been the chair of such Hearings for a three person panel; chairs are appointed by MOPAC and are subject to additional training for the role. Misconduct Hearings are now open to the public and details of how to gain access to these is available on the external MPS website.

227. If the officer is found to have committed gross misconduct the available sanctions are management advice, written warning, final written warning, dismissal with or without notice. According to the aforementioned SOP, summary dismissal may be considered regardless of whether or not the employee has received a warning in case of corruption (i.e. unauthorised acceptance of money, goods, favours or excessive hospitality in return for favourable treatment). Officers have the right of appeal after each formal stage of proceedings. If disciplinary and criminal proceedings are started, the criminal case will generally be given precedence. In the year ending March 2016 there were 206 criminal investigations, 166 of which related to police officers, and 40 to police staff. The majority of these followed an internal conduct allegation.⁴⁶

228. Allegations or reports that indicate an NCA officer may have committed a criminal offence or behaved in a manner that would justify disciplinary proceedings are assessed and, where appropriate, investigated by the NCA Professional Standards Unit (PSU). The latter consists of the Case Administration Bureau (seven officers) and five Investigation Officers. The Investigating Officers have the powers of a police officer and are trained in criminal law and the investigation of internal conduct matters. Investigations may commence as a result of a public complaint, an officer reporting matters or by an anonymous confidential report line direct to the PSU. After the completion of investigations, disciplinary proceedings are carried out by NCA Misconduct Panels. They are composed of a Director grade officer as the chair (at least one grade above the accused person), a business representative of grade 2 or above and an HR representative. NCA misconduct hearings are not public. Generally speaking, if disciplinary and criminal proceedings are initiated, the criminal proceedings will take precedence; if the officer was found not guilty of the criminal offence then that could affect the internal disciplinary proceedings. If the evidence is unequivocal however or the

⁴⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330235/MisconductPerforMAttendanceJuly14.pdf

⁴⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/586508/police-workforce-sep16-hosb0217.pdf

criminal case is going to take a particularly long time then disciplinary proceedings may well be fast tracked and take place ahead of any criminal trial.

229. Misconduct is defined as any breach of the NCA code, values and behaviour, the Civil Service Code, all NCA policies and procedures and/or prevailing legislation which would not, in the first instance lead to dismissal. Gross misconduct refers to more serious breaches of conduct; and/or failure to demonstrate the required improvements following previous misconduct; and/or conduct which may warrant dismissal or summary dismissal. Sanctions available include words of advice, first written warning, final written warning and dismissal. An officer may appeal against the panel's finding and the sanction imposed.

External oversight and control

230. As mentioned above, both the MPS and the NCA are subject to oversight by the Independent Police Complaints Commission (IPCC).⁴⁷ The IPCC operates under statutory powers and duties set out in the Police Reform Act 2002 and underlying regulations. The key functions of the IPCC include providing independent oversight of the police complaints system, considering appeals regarding police investigations into complaints and carrying out its own independent investigations into the most serious and sensitive matters relating to police conduct. The police in England and Wales and other law enforcement bodies that fall under the IPCC's jurisdiction, such as the NCA, are required under the 2002 Act to refer all deaths and serious injuries that occur in their custody or immediately following contact with them. Under the mandatory referral criteria set out in regulations underpinning the 2002 Act, they are also required to refer serious complaints and conduct matters (e.g. cases of serious corruption or assault allegations) specified in the IPCC "Statutory Guidance to the police service on the handling of complaints."

231. The IPCC consists of a Chair and a number of commissioners, all of whom must not have worked for the police in any capacity prior to their appointment. The Chair is a crown appointment made on the recommendation of the Home Secretary and commissioners are appointed by the Home Secretary following an open competition for a five or three-year period. The commission is supported by a Chief Executive who leads a staff of around 900 people.

232. The authorities stress that the IPCC is independent, making its decisions entirely independently of the police, government and complainants. The Staff Code of Conduct is applicable to all staff, including Commissioners and Directors. All previous employment with police needs to be declared. All lead investigators, as well as casework managers who assess appeals against police internal investigations, are required to undertake mandatory initial training and follow-up training. All investigators are required to attend the College of Policing for specific training relating to corruption.

233. IPCC oversight may lead to criminal prosecution, misconduct processes and entry into the Disapproved Register held by the College of Policing. Supervised investigations can be appealed to the IPCC as can local investigations. All investigation outcomes can be subject to judicial review.

⁴⁷ Since the NCA covers the whole of the United Kingdom, there are three bodies that provide oversight of the conduct of NCA officers: the Independent Police Complaints Commission/IPCC (England and Wales), the Police Investigation Review Commission (Scotland) and the Police Ombudsman Northern Ireland.

234. There are four different courses of action by the IPCC upon receiving a case: (i) carry out the whole investigation; (ii) manage the investigation undertaken by the police forces or bodies; (iii) supervise the investigation led locally; (iv) refer the case back to be investigated locally.

235. Whilst a decision is made within the police force by the Appropriate Authority as to whether a matter should be referred to the IPCC for consideration, the criteria for the mandatory referral of complaints or conduct allegations are specified in the Police (Complaints and Misconduct) Regulations 2012. This sets out the specific criteria, supplemented by Statutory Guidance issued by the IPCC, for matters that must be referred to the IPCC to make a decision as to whether an investigation is necessary and the form that such an investigation should take. In addition, as prescribed by the Police Reform Act 2002, any death or serious injury, during, following or in relation to police contact must also be referred to the IPCC.

236. When it comes to the MPS Directorate of Professional Standards, which would be competent to refer serious cases to the IPCC, they depend on Borough Operational Commands signalling such cases. The GET was told that there is still a culture of not denouncing colleagues and, if an operational command decides that a claim of misconduct is groundless, it can decide not to record it before any investigation has taken place. The competent authority for dealing with appeals will depend on the subjective decision regarding the seriousness of the case. If it is not considered serious, the appeal will be dealt with by the Chief Constable, in the case of the MPS the Metropolitan Police Commissioner, and if it is considered to amount to gross misconduct the IPCC will be competent. In practice, there appears to be a grey area between cases that should be reported to the IPCC and those that need not, in spite of the fact that the GET was told that criteria had been established. Interlocutors felt that further training on the set criteria to refer a case to the IPCC would be welcomed. However, the authorities disagree and consider the existing criteria to be clear. The competent authority for dealing with appeals will depend on the seriousness of the allegation made. If it is not serious, the appeal will be dealt with by the Chief Constable, in the case of the MPS, the Metropolitan Police Commissioner. If the allegation is serious, (for example, the conduct complained of (if it were proved) would justify the bringing of criminal or misconduct proceedings against a person serving with the police) the IPCC will consider the appeal.

237. The GET was also told that there is a perception in local police forces that the position of Professional Standards Director, who is responsible for dealing with local complaints concerning misconduct, corruption, etc. and for referring cases to the IPCC, is not regarded by officers as good career move. The GET was also informed of the high turnover of officers in PSD and consequently a lack of experience in PSD Units. The National Police Chiefs Council has now established minimum appointment periods in order to secure minimum tenure periods and reduce the regularity with which Heads of PSD are appointed and ensure greater continuity and specialist expertise.

238. It was the view expressed by many interlocutors that the IPCC is currently swamped with cases and, in view of its current resources, cannot deal appropriately with the amount of referrals. However, the authorities indicate that the Government has increased the IPCC's resources significantly since 2013 to enable it to deal with all serious and sensitive matters

itself (see paragraph 240). Approximately 10% of all complaints are referred to the IPCC, some 4 000 cases per year on average. That said, investigations were led by the IPCC into around 600 cases in 2016. Out of the total number of investigations, 74 were dealt with by the IPCC counter-corruption unit. Cases not investigated by the IPCC (either for reasons of resources or at the IPCC's discretion) that fell under the referral criteria had to be given back for local resolution. The IPCC takes dip samples to review local resolutions. In the last years engagement between the IPCC and the local police forces has improved. About 90 % of the reviewed local resolutions are found to be correct. But there is no oversight of the IPCC regarding cases that are not subject to the referral criteria.

239. Under provisions in the Policing and Crime Act 2017, from early 2018, the IPCC will be restructured and renamed the Independent Office for Police Conduct (IOPC). The existing commission will be replaced by a single executive head of the organisation (the Director General), with corporate governance provided by a unitary Board with a majority of non-executive members. Furthermore, the Policing and Crime Act 2017 aims at streamlining some of the rules, for example by, providing that if a complainant wishes for a complaint to be formally recorded it must be recorded, thereby abolishing the possibility of not recording a complaint and by allowing the IOPC to directly receive and handle anonymous complaints.

240. The GET takes notes of the ongoing reform and that it appears to go towards a simplification of the referral and appeals procedures, which has been described by interlocutors as currently overly complex and leading to lengthy proceedings. An increase in resources for the new appeals body, has been allocated, the lack of adequate resources of the IPCC having been described as critical and preventing it from carrying out properly its role. The lack of resources was also highlighted by a report of the House of Commons Home Affairs Committee published in 2013.⁴⁸ However, the Government has already increased the IPCC's funding since 2013/2014 from GBP32 million/EUR35 million (2013/2014) to GBP58.6 million/EUR65.5 million (2016/2017). The GET also considers it an important development that the Policing and Crime Act 2017 would remove the possibility of not recording a complaint, which at present keeps such cases from any oversight.

241. In view of the shortcoming of the current system and taking into account the ongoing reform, **GRECO recommends that the UK authorities pursue their efforts to improve the oversight of police misconduct, including regarding the Metropolitan Police Service and the National Crime Agency (NCA), by simplifying the referral and appeals procedures and by keeping under close review the implementation and adequate resourcing of the ongoing reform of the oversight system.**

242. Her Majesty's Inspectorate of Constabulary (HMICFRS)⁴⁹ independently assesses police forces and policing (in England and Wales) across activity from neighbourhood teams to serious crime and the fight against terrorism, in the public interest. It carries out an annual, all-force inspection which assesses police efficiency, effectiveness and legitimacy. HM Inspectors of Constabulary are appointed by the Crown, they are not employees of the police service or government.

⁴⁸ <https://publications.parliament.uk/pa/cm201213/cmselect/cmhaff/494/49402.htm>

⁴⁹ Inspections may also be made, by invitation and on a non-statutory basis, of the [Police Service of Northern Ireland](#). Her Majesty's Inspectorate of Constabulary in Scotland is competent for inspections regarding Police Scotland.

243. HMICFRS reviews systemic issues such as procedures, training and leadership. HMICFRS employs about 140 staff. In addition to its own annual inspection plan, topics can be put forward by the Home Office and the PCC (Police and Crime Commissioners) for examination by HMICFRS. HMICFRS reports to Parliament. It has powers to seek information from police forces and to access their premises. The GET welcomes the independent assessments carried out by the HMICFRS which serve to identify systemic problems, including in relation to integrity,⁵⁰ and follows up on the recommendations it formulates in its reports.

Complaints system

244. Public Complaints may be made directly to the MPS/NCA or the IPCC.⁵¹ They can be made verbally, or in writing by letter or email. Complaints may be raised via the websites of those bodies. There is no charge to make or record a complaint. How to complain is made clear on the websites. Furthermore, the IPCC have produced a [guide to the police complaints system](#) which is published on the internet. Detailed "[Statutory Guidance to the police service on the handling of complaints](#)" is published on the internet as well. The College of Policing has also issued guidance on the subject.

245. Members of the public who complain about an officer are to be informed about the progress of investigations, if any, and the outcome of proceedings. They have a right of appeal which, for serious allegations, will be to the IPCC. For allegations that are not serious the appeal will be handled by the Chief Constable of the force. All investigation outcomes can be subject to judicial review.

Reporting obligations and whistleblower protection

246. MPS officers are obliged to report (suspected) corruption/related misconduct/breach of duty or of the code of ethics by fellow staff members, which they come across in the course of their duties. This is outlined in Section 10 of the Code of Ethics. Reports can be made through internal formal and anonymous contact methods, supervisors, Professional Standards Champions, the Right-line extension/online and or Federation or Union representatives, and also through the Crime stoppers (a charity) public free phone number. There is also a whistleblowing and reporter of wrongdoing policy on the MPS website. Failing to report wrongdoing may result in a disciplinary sanction, depending on the circumstances. It could not be clarified with the interlocutors during the on-site visit how and if this reporting obligation collides with the possibility to report anonymously and the right of whistleblower protection.

247. The MPS Reporting of Wrongdoing (ROWD) is managed by Detective Superintendent for the Anti-Corruption Command reporting to the Appropriate Authority. According to statistics provided by the authorities, three cases were recorded in 2014, two in 2015 and none in 2016.

⁵⁰ HMIC "Integrity matters – An inspection of arrangements to ensure integrity and to provide the capability to tackle corruption in policing" (2015). Available at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/police-integrity-and-corruption-2015.pdf>

⁵¹ Or the other Independent Oversight bodies, in the case of the NCA.

248. The NCA Code expects and encourages officers to challenge and report wrongdoing (i.e. suspected breaches of the professional standards/the NCA Code) within the agency. Officers may make a confidential or open report to the PSU or directly to the oversight bodies. Failing to report wrongdoing may result in a disciplinary sanction. More detailed rules and guidance are provided in the NCA Policy SS17 (classified document). The NCA intends to adopt the College of Policing Code of Ethics and adapt it into its own form of Code of Ethics and Professional Conduct which provides for an enhanced focus on the reporting of wrongdoings. The GET strongly supports such a move. In this respect, GRECO highlights that reporting misconduct should be clearly spelt out as an obligation for every police staff to observe.

249. Under the Employment Rights Act 1996 (as amended Public Interest Disclosure Act (PIDA)1998), whistleblowers are protected by law in certain circumstances. They should not be subject to any detriment at work or lose their job because they “blow the whistle”. MPS and NCA officers are considered to be “workers” and thus fall under the Employment Rights Act 1996.

250. Details are provided in the MPS Policy “Whistleblowing and Reporting Wrongdoing Toolkit - Questions & Answers (Q&As)” and the NCA policy “Professional Standards Reporting” which is also to be supported by a “Raising a concern and Whistleblowing” policy (currently in draft form). Reports can be made internally, to oversight bodies, the Civil Service Commission (in the case of the NCA) or (if PIDA applies) prescribed persons (regulatory bodies) as defined by PIDA legislation.

251. There are several options to report confidentially, via external lines (Crime Stoppers) or internal lines (right-line), which both function via phone or online. Crime Stoppers forward the information to the MPS, where the information is treated as intelligence. It requires a senior level decision to forward such information to the IPCC. Unions can also keep information confidential; the NCA Association has the possibility to forward “blank reports” to DG level and to interact directly with the IPCC.

252. However, the GET notes that the aforementioned HMICFRS inspection report on integrity indicates that *“internal confidential reporting methods are not trusted by a substantial proportion of officers and staff”* and *“more needs to be done to ensure that forces not only provide a means to report wrongdoing confidentially, but also that they ensure their officers and staff know that it exists; know how to use it; are encouraged to use it and trust it sufficiently to use it”*.⁵² These findings were confirmed by interlocutors met by the GET during the site visit, who underlined that the law of silence still had a chill factor on internal reporting. Therefore, **GRECO recommends strengthening the protection of whistleblowers within the police service and reaffirming the obligation for police officers to report corrupt conduct.**

Criminal proceedings and immunities

253. MPS and NCA officers do not enjoy immunities or other procedural privileges. They are subject to ordinary criminal proceedings.

⁵² <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/police-integrity-and-corruption-2015.pdf>

Statistics

254. According to statistics provided by the MPS, in 2016, 103 allegations of misconduct (perjury, corruption, improper disclosure of information) were recorded (21% of which concerned female officers). In the same year, formal action was taken in 64 cases, including dismissal in 27 cases. The authorities provide similar figures for the five preceding years.

255. As for the NCA, in 2016, 41 conduct cases were recorded involving a total of 65 officers comprising 24 cases of gross misconduct, nine cases of misconduct, five cases where no action was taken (effectively de-recorded) and three on-going cases. In the same year, the following conduct outcomes were recorded: nine dismissals, 12 final written warnings, six first written warnings, 16 management advice, eight “no case to answer”, four retired or resigned, six not proceeded with/no action, three on-going. In 2016, 39 public complaints were recorded. The authorities provide similar figures for the three preceding years.

VI. RECOMMENDATIONS AND FOLLOW-UP

256. In view of the findings of the present report, GRECO addresses the following recommendations to the United Kingdom:

Regarding central governments (top executive functions)

- i. establishing a centralised mechanism for analysing and mitigating risk areas of conflicting interests and corruption in respect of individuals with top executive functions at central government level (paragraph 44);**
- ii. making more information available regarding meetings held by ministers, special advisers and senior civil servants with third parties, including lobbyists, and that such entries contain a sufficient amount of detail on matters discussed, to identify the specific subject matter(s) of the discussion and the specific purpose or intended outcome of the discussion (paragraph 78);**
- iii. that the scope of the registry of consultant lobbyists be reconsidered, with a view to i) extending the existing registry of consultant lobbyists (to include third parties operating with “in-house lobbyists”) and ii) including the lobbying of special advisors and senior civil servants involved in policy making (paragraph 79);**
- iv. i) that the status, remit and powers of the body advising on business appointments of former ministers and senior civil servants (ACoBA) be strengthened, with accompanying resources to carry out effectively its functions; ii) that individuals with top executive functions are not only required to apply for advice before taking up employment in the private or other sectors upon leaving office but also that breaches of rules on post-employment restrictions are subject to adequate sanctions (paragraph 121);**
- v. that the authorities clarify and consider broadening the scope of what are to be considered “relevant interests” in ministers’ declarations of interests for the purpose of their publication (paragraph 124);**
- vi. reviewing the status, role and remit of the Independent Adviser on Ministers’ Interests to include the interests of ministers, special advisers and permanent secretaries and to strengthen his/her independence/autonomy, to investigate, where s/he considers it appropriate to do so, on his/her own initiative, into ethical conduct or conflicts of interest (paragraph 134);**

Regarding law enforcement agencies

- vii. that further efforts be made to ensure that training on integrity and ethics be better linked to the day-to-day work of police staff and be practice-oriented (paragraph 176);**
- viii. that trained persons of trust be appointed within the Metropolitan Police Service (MPS) and the National Crime Agency (NCA) – as well as all police forces and other**

law enforcement agencies – in order to provide confidential advice on ethical and integrity matters (paragraph 181);

- ix. that adequate measures be taken and sufficient resources allocated in order to ensure that within the Metropolitan Police Service (MPS) vetting takes place not only during staff recruitment but also at other regular intervals during its staff members' careers (paragraph 186);**
- x. considering the possibility of imposing post-employment restrictions on all police officers and staff leaving the Metropolitan Police Service (MPS) (paragraph 216);**
- xi. that the UK authorities pursue their efforts to improve the oversight of police misconduct, including regarding the Metropolitan Police Service and the National Crime Agency (NCA), by simplifying the referral and appeals procedures and by keeping under close review the implementation and adequate resourcing of the ongoing reform of the oversight system (paragraph 241);**
- xii. strengthening the protection of whistleblowers within the police service and reaffirming the obligation for police officers to report corrupt conduct (paragraph 252).**

257. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the United Kingdom to submit a report on the measures taken to implement the above-mentioned recommendations by 30 June 2019. The measures will be assessed by GRECO through its specific compliance procedure.

258. GRECO invites the authorities of the United Kingdom to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.
