Ethical standards for providers of public services

Committee on Standards in Public Life, UK (Chair: Lord Paul Bew)

Research into public attitudes towards key issues of public services reform, specifically issues of choice, quality and the use of more providers from outside the public sector, found that people are more concerned with how well services are delivered and not which sector provides them (Worth and Nwador, 2012). When a provider fails to deliver to the standards expected, it may have profound consequences for the individual user and damage public trust more generally.

For the provider of public services it makes good business sense to adhere to ethical standards. Ethical failures by banks, the press and in the public service market have all demonstrated that the damage to reputation and trust, and the financial cost to the business or provider concerned, can be high. As the Confederation of British Industry (CBI) has recently acknowledged, ‘without addressing the legitimate expectation of transparency around provider performance and an assurance for the continuity of service when a provider fails, trust in public service markets cannot be fully realised’ (CBI, 2013: p. 8).

Continuity of public services can also be a major area of risk, particularly if there is a failure by a significant provider, where there may be little or no alternative provision. As well as the impact on individual users, it may mean that the government has to step in to provide services by default and to meet the financial costs of doing so. Failures in service provision have broader implications for the level of public trust and confidence in the government and its ability to deliver public services.

In the report Standards Matter: A Review of Best Practice In Promoting Good Behaviour in Public Life the Committee on Standards in Public Life (CSPL) considered that new wide-ranging ways of delivering public services, which entail services being delivered by people not previously involved in public service, are a live risk to ethical standards in public life (CSPL, 2013). We considered it essential then that care was taken to design structures which addressed this risk.¹

The Committee on Standards in Public Life has therefore recommended that:

- In all cases where new methods of delivering public services are being created, commissioners and providers should give careful thought to the mechanisms necessary to maintain expected high standards of behaviour and promote the principles of public life
- Public servants designing and commissioning services should, in a consistent and proportionate way, address ethical issues throughout the procurement process. Contractors and others should acknowledge the particular responsibilities they bear when delivering public services, paid for by public money, to individuals who may not have the choice of going elsewhere
- Where powers to regulate standards are devolved to promote local responsibility and leadership, care should always be taken to ensure that there is independent scrutiny, that the results of such scrutiny are made publicly available and that those who have responsibility for imposing sanctions have adequate legal or other powers to do so

The review

Our review Ethical Standards for Providers of public services explored this issue further. Recent examples of poor performance by major private sector providers have focused on cost, competition and value for money considerations. However, poor performance has highlighted the importance of behaving ethically in the delivery of public services. Poor performance and standards failures have also occurred in the public sector – indeed, much of CSPL’s past work has focused on reviewing such failures and making recommendations for improvement. But now, as public services are increasingly being delivered by those outside the public sector, we wanted to test the expectation and assurance of ethical standards in the public service market.

We commissioned new research with members of the public, commissioners and providers of public services. We also spoke to individuals and organisations with current experience of commissioning and providing public services, in order to canvass their understandings of the ethical principles and standards.²

Unless the ethical principles which are seen as important in the delivery of public services are clearly translated into contractual arrangements and clear guidance, it is unlikely that providers of public services will believe that they are unambiguously applicable to them or give sufficient priority to how they are expected to behave. These risks are increased as the notion of a lifetime career in public service diminishes and with it, exposure to a culture of public service ethics. As such, awareness of the ethical standards framework for public services certainly cannot be taken for granted.

As part of this study the CSPL commissioned Ipsos MORI to carry out research into public and stakeholder views on the ethical standards providers of publicly funded services should conform to, and how closely they relate to the Seven Principles of Public Life.³

Some key messages from the report Ethical Standards for Providers of Public Services. The UK’s Committee on Standards in Public Life is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The chair and members of the committee are appointed by the Prime Minister.
The committee also conducted semi-structured interviews with commissioners and public service providers to understand how organisations ensure that they meet the high ethical standards expected for the delivery of public services and managing of public resources. From this evidence base the committee identified some emerging themes, examples of current practice and proposals.

Findings: Stakeholder views

Despite the common view that providers will, in most cases, conform to ethical standards, it was found that commissioners do not necessarily articulate ethical standards to providers explicitly. It was considered that there were limitations in the current mechanisms to establish how ethical standards were embedded in provision. Whilst many thought efficiency and flexibility gains had been achieved through new ways of working, there was some concern that certain providers would ‘cut corners’, ‘deliver below par services’ or risk quality of service in order to achieve value for money or payment demanded by commissioners. Stakeholders felt there was a greater emphasis on transparency around decision-making and accountability, although the latter tended to be seen predominantly in financial terms.

The conduct of organisations and individuals delivering services was seen as important, and there was an expectation that organisations would comply with legal and regulatory requirements, and staff would conform to an organisational code of conduct. There was also:

- A view that ‘personalisation’ of services to the needs of the user – which was not consistently defined – implicitly required high ethical standards
- An acknowledgement that complaint data and user satisfaction data could be used more effectively
- A concern that some commissioners may not be able to deal with the size and complexity of new contracts
- A focus on quantitative metrics to measure outcome and impact
- Evidence that commissioners wanted training, dissemination and guidance to help and support them to encourage providers to conform to ethical standards

From the views expressed during focus groups with members of the public, we can be confident that the public expected that the same ethical standards should be confirmed and upheld by any organisation providing public services irrespective of the nature of the organisation providing the service. ‘How’ the service is delivered was found to be as important as ‘what’ is delivered. The public want personalisation and a user-led definition of quality. The public are, however, realistic and acknowledge the need for proportionality and the implications for cost. They recognise that good outcomes as defined in the contract will not necessarily conform to high ethical standards. So, as the Ipsos MORI research clearly revealed, they also want closer and more effective scrutiny of all providers regardless of sector, to ensure those delivering services are held to account if they do not meet user expectations.

However, the committee’s meetings with commissioners and suppliers indicated that ethical standards do not tend to be explicitly incorporated into either the selection or contractual arrangements, nor is performance monitored on this basis. The primary focus of commissioners appears to be on cost and outcomes – the ‘what’ and not the ‘how’.

Commissioners rely instead on an implicit understanding and application of ethical standards, which, across government, we found to be fragmented, piecemeal and inconsistent. There is an assumption that a relationship of trust between the commissioner and the provider alongside ongoing dialogue would ensure that the desired values are delivered as part of the service. But we heard that this is not without risk of potential inter-dependency, particularly with big suppliers, and there is potential for conflicts of interest, especially in relation to the interchange of office holders.

The Seven Principles of Public Life

The Seven Principles of Public Life are accepted as the basis of the ethical standards expected of public office holders. While these principles have not changed over time, the scope of public office holders has. More and more public services are provided by third-party organisations outside the conventional public sector.

The key message, as shown by our research, is that the public want all providers of public services to adhere to and operate by common ethical standards, regardless of whether they are in the private, public or voluntary sectors. Ethics matter. The public are right to expect high ethical standards and the government must ensure that this is achieved regardless of who is providing public services.

Lord Paul Bew
Chair, Committee on Standards in Public Life

Selflessness. Holders of public office should act solely in terms of the public interest.

Integrity. Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

Objectivity. Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability. Holders of public office are accountable to the public for their decisions and actions, and must submit themselves to the scrutiny necessary to ensure this.

Openness. Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty. Holders of public office should be truthful.

Leadership. Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
between sectors. Reliance for assuring ethical standards was also placed on providers meeting legal and regulatory obligations, such as those directed at anti-bribery or corruption. Whilst necessary, we do not consider this sufficient assurance or a substitute for ethical consideration.

One area which gave us particular concern arises from the size and complexity of supply chains, in particular the use of sub-contractors where there is potential for lack of visibility on the part of commissioners as to the performance of sub-contractors and the extent to which their behaviour is being monitored and evaluated. Clear lines of accountability need to be established between the commissioner and the lead contractor.

However, with regard to whether small and medium enterprises (SMEs) might find an ethical framework an unnecessary or unworkable burden (due to their size), we found this concern not to be supported by those we met.

There was a general sense that ongoing monitoring of contracts was limited and if it did occur was focused on performance and financial measures. This gives us some unease, especially when taken together with an acknowledgement from commissioners and providers that too many commissioners and contract managers are lacking the commercial skills to effectively manage providers.

**Conclusions**

It is evident from our research that currently there are no consistent structures or arrangements in place actively to promote the right ethical standards as part of a process for securing the regularity and propriety of commissioning and procuring of public services.

There is a need for any such framework to be risk-based, flexible and proportionate, as stated in the CSPL report Getting the Balance Right: Implementing Standards of Conduct in Public Life: ‘in the standards field proportionality is concerned with the balance between propriety, accountability and efficiency; in the context in which decisions are made; and the outcomes intended’. How it is implemented in practice will depend on the nature of the public service being provided, the model of delivery and the kind of provider. The full report proposes an ethical standards framework as a guide and as a basis for further discussion. As well as making the following recommendations aimed at central government and reflecting the scope of the research itself.

We consider that much of the research findings and many of our conclusions are generic and will be of broader relevance and application across the public sector.

It is inherently difficult to contract for values and culture. But we believe we can build on existing mechanisms, many of which will

**Existing standards frameworks for supply chains**

For the last 30 years, the UK government has been commissioning and procuring third parties to deliver public services. An estimated third of all public spending on services is now delivered by private companies. The National Audit Office estimates that the public sector spends £187 billion per year on goods and services with third parties across the public sector. The CBI calculates that the public services sector in the UK accounts for 7.2 per cent of GDP and employs 5.4 million people. The rate and value of public sector outsourcing contracts appears to be accelerating.

As well as direct out-sourcing a very wide range of new ways of delivering public services now exists resulting in increasingly large and complex supply chains. At central government level, the Crown Commercial Service has been established to bring together the government’s commercial capability into a single organisation, to create expert commercial services for common goods and services as well as complex procurements, and to support departments’ projects when needed. Crown Representatives work across departments and manage either a small pool of the government’s key strategic suppliers or represent a particular sector of the market. As at April 2014 there are 21 Crown Representatives from a mix of commercial and public sector backgounds.

**The Merlin Standard** is designed to recognise and promote sustainable excellence within supply chains. Its aim is to encourage excellent supply chain management and to ensure fair treatment of partners and subcontractors by the prime contractor. The principles on which it is built include conduct and elements of the assessment of the organisation validated by supply chain partners includes such criteria as ‘culture in which communication is open, honest and without unreasonable constraint’, ‘procurement processes are fair and transparent’ and ‘it actively seeks users’ feedback…to inform and improve practices’. The Merlin Standard is a required standard for providers of the Department of Work and Pension Disability Assessments.

**SPRAM** (Sustainable Procurement Risk Assessment Methodology) is a tool developed in-house by the Department of Work and Pensions for ensuring the department’s sustainable procurement targets and objectives (e.g. Small Medium Enterprises (SMEs) agenda, Greening Government Commitments, Equality duties) are factored in to contract programmes. It allows for the consideration and mitigation of potential environmental, economic and social risks associated with a contract. SPRAM must be completed prior to tender specifications being developed and updated on contract award. It is the responsibility of the procurement lead, the senior responsible officer and, during contract management, the non-commercial staff to ensure SPRAM is regularly updated and submitted as directed. All suppliers can expect to be subject to a SPRAM assessment.

**CAESER** (Corporate Assessment of Environmental, Social and Economic Responsibility) is an online tool managed by NQC Ltd which validates high environmental standards in a supply chain. CAESER examines areas such as working conditions, use of SMEs and skills development of each organisation’s operations, which are then assessed against the wider context of corporate social responsibility and the government’s sustainability agenda. Suppliers can undergo a ‘self-certified’ assessment, which is then ‘verified’ or awarded a ‘gold status’, where CAESER assesses the responsible practices of suppliers and can recommend improvements to their policies and practices. The CEASAR assessment methodology is recognised by the Chartered Institute of Purchasing and Supply, and is used by a number of central government departments in their procurement of goods and services.
already be present in organisations delivering these services, to prompt and promote ethical behaviour. This, taken together with an increased focus on personalisation and user-led definitions of quality, is what our research shows the public demands.

Recommendations

1. The Cabinet Office should:
   - Adopt a strategic programme to reinforce the message that the Seven Principles of Public Life apply to any organisation delivering public services, and the frameworks required to support ethical standards
   - Ensure that ethical standards reflecting the Seven Principles of Public Life are addressed in contractual arrangements, with providers required to undertake that they have the structures and arrangements in place to support this
   - Ensure that high ethical standards are championed by Crown Representatives in their relationship with their strategic suppliers
   - Ensure that Crown Representatives provide specific advice to ministers on this aspect of their relationship with suppliers
   - Work collaboratively with the National Audit Office and HM Treasury to develop guidance on how value for money can be aligned with high ethical standards

2. Accounting officers should actively seek assurance that public money is being spent in accordance with the high ethical standards expected of all providers of public services and annually certify (as part of managing public money duties) that they have satisfied themselves about the adequacy of their organisation’s arrangements

3. Ethical standards should be the specific responsibility of one non-executive board member of government departmental boards and should be incorporated within the Committee of Public Accounts recommended departmental periodic reviews of performance regimes

4. Those directly involved in commissioning and contracting should always receive formal assurance by providers of their acceptance of the necessity of ethical standards in the delivery of public service.

5. Consider ethical awareness a professional commercial capability requirement for those commissioning, procuring or managing government contracts

6. The Crown Commercial Service working with Civil Service Learning and the Commissioning Academy should arrange training on ethical awareness and disseminate best practice on ethical standards

Endnotes


2 The Committee on Standards in Public Life has a remit to examine standards of conduct of all holders of public office in the UK, including those involved in the delivery of public services. This was clarified in 2013 and confirms that the Seven Principles of Public Life, the basis of the public sector’s ethical standards framework, has application to all service providers whether in the private, public or voluntary sector.

3 In preparing the report, committee members met with representatives from the following government departments and organisations: Department of Health; Department for Education; Department for Communities and Local Government; Cabinet Office and Crown Commercial Service; Home Office; Ministry of Justice; Department for Environment Food and Rural Affairs; Department of Work and Pensions; Department of Transport; Civil Service; Police and Crime Commissioners; London Borough of Barnet; Capita plc; Serco Group; and PricewaterhouseCoopers UK.

4 The Seven Principles were established in the committee’s first report in 1995; the accompanying descriptors were revised following a review in the 14th report, published in January 2013. The principles of public life apply to anyone who works as a public office holder, whether as elected representatives, stewards of public resources, or employed or involved in front-line service delivery.


References


