

## Briefing for the Public Petitions Committee

**Petition Number:** [PE1843](#)

**Main Petitioner:** Ewen Cameron

**Subject:** Review the Commissioner for Ethical Standards in Public Life in Scotland

Calls on the Scottish Parliament to urge the Scottish Government to review and consider revision of the governance, accountability and integrity of the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS), and ensure it adheres to the 7 principles of public life as stipulated in the "Nolan principles": Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership.

### Commissioner for Ethical Standards in Public Life in Scotland

The Ethical Standards Commission's (ESC) role is to investigate complaints about the behaviour of MSPs, local authority councillors, board members of public bodies and lobbyists, as well as being involved in the process of appointing people to boards of public bodies in Scotland. It is headed by the Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner) which was established as a full-time post in 2013. The Commissioner is appointed by the Scottish Parliamentary Corporate Body. The Commissioner is supported by a staff of 8.7 FTE employees in 2019/20 (the latest available [annual report](#)), and they undertake responsibilities set out in four pieces of legislation:

1. [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#)
2. [Scottish Parliamentary Standards Commissioner Act 2002](#)
3. [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003](#)
4. [Lobbying \(Scotland\) Act 2016](#)

The ESC regulates and monitors the system used to appoint board members to public bodies in Scotland. While not responsible for the recruitment process, ESC have produced a [Code of Practice for Ministerial Appointments to Public Bodies in Scotland](#), and provide [guidance on how the Code is to be applied and followed](#). [Public Appointments Advisors](#) are appointed by the Commissioner and their role varies from oversight of the planning process for the appointment to a full selection panel member, depending on the

Commissioners decision as to the level of oversight necessary. ESC also conduct [audits and thematic reviews](#).

The ESC is responsible for investigated alleged breaches of the code of conduct, but the [Standards Commission for Scotland](#) adjudicate on these investigations. The Standards Commission can only investigate a complaint if it is referred to it by the ESC. The Standards Commission note that:

*“The independence of the investigatory role undertaken by the ESC and the adjudicatory role undertaken by the Standards Commission is a crucial principle. The reason for, and benefit of, the separation of these functions between the two distinct organisations is to ensure impartiality, fairness and objectivity in the decision-making process.”*

## The Nolan Principles

The Seven Principles of Public Life, referred to as the Nolan Principles, were first set out by Lord Nolan in 1995 in the [first report to the UK Committee on Standards in Public Life](#). The seven principles are:

- **Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

## Scottish Parliament Action

Recent questions in Parliament have tended to focus on appointment processes relating to specific positions including the [Chair of the Scottish National Investment Bank](#), the [Board of the South of Scotland Enterprise Agency](#) and the [Scottish Police Authority board](#).

## Scottish Government Action

There have not been recent changes to legislation in terms of the [Scottish Government policy related to public appointments](#), other than secondary legislation to extend the coverage to new public bodies including [the Scottish National Investment Bank](#) and [Consumer Scotland](#).

In 2014 the Scottish Government published a [Modal Code of Conduct](#) for members of devolved public bodies. This Code includes 9 key principles which have considerable overlap with the Nolan Principles:

- **Duty:** You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the public body of which you are a member and in accordance with the core functions and duties of that body.
- **Selflessness:** You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.
- **Integrity:** You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.
- **Objectivity:** You must make decisions solely on merit and in a way that is consistent with the functions of the public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.
- **Accountability and Stewardship:** You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the public body uses its resources prudently and in accordance with the law.
- **Openness:** You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.
- **Honesty:** You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

- **Leadership:** You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the public body and its members in conducting public business.
- **Respect:** You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a member of your public body.

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