

How Democratic is the UK? **The 2012 Audit**

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2.6. Integrity in public life

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2.6. Integrity in public life

Executive Summary

This chapter reviews the available evidence relating to the five 'search questions' concerned with integrity in public life.

Our analysis in this chapter identifies a number of changes and continuities since our last full Audit of UK democracy. These are summarised below under three separate headings: (a) areas of improvement; (b) areas of continuing concerns; and (c) areas of new or emerging concern.

(a) Areas of improvement

1. The establishment of an independent body to oversee MPs' expenses, pay and pensions.

In response to the public scandal over MPs' expenses, the government announced in May 2009 that it would bring forward legislation to create an independent body to oversee the expenses regime for MPs. The Parliamentary Standards Act 2009 established the Independent Parliamentary Standards Authority (IPSA) (covering the Commons only). Significantly, the Commons has surrendered its previous ability to make decisions on expenses. The act also gave the independent regulator responsibility for maintaining the register of financial interests and for an accompanying statutory code of conduct on financial interests, to operate alongside the house's existing non-statutory code of conduct on other issues; and created a new commissioner for parliamentary investigations to investigate breaches of the code of conduct. The Parliamentary Standards Act 2009 was amended in 2010 to give IPSA responsibility for members' pay and pensions; and to relinquish functions in relation to MPs' financial responsibilities. (For further details and discussion, see Case Study [2.6b](#))

2. The appointment of an independent adviser on ministerial interests.

Rules of propriety for ministers are found in the ministerial code. An independent adviser on ministerial interests has been in place since 2006. (For further details and discussion, see Section [2.6.1](#))

3. The provision of a statutory basis for the civil service code and the civil service management code.

Both the civil service code and the civil service management code have arguably been strengthened since the Constitutional Reform and Governance Act 2010 provided them with a statutory basis for the first time. (For further details and discussion, see Section [2.6.1](#))

4. The establishment of a House of Lords commissioner for standards.

In 2008 the House of Lords Committee for Privileges recommended more detailed guidance on conduct for peers. Early in 2009, a press investigation exposed four peers as offering to secure amendments to legislation in exchange for large sums of money. The police decided not to pursue charges. Alongside the MPs' expenses scandal a number of allegations emerged in mid-2009 regarding improper expenses claims by peers. In May 2009, a House of Lords leader's group was convened to consider the code of conduct for members of the Lords and related issues. Its recommendations, accepted by the Lords, included the creation of a commissioner for standards, functionally independent but appointed by the house, the remit of which would include investigating complaints about financial support arrangements along with complaints under the code. (For further details and discussion, see Section [2.6.1](#))

5. The establishment through the Bribery Act 2010 of a new statutory regime for preventing bribery.

Before the passing of the Bribery Act 2010, the legal framework in this area was provided by the common law offences of bribery and attempted bribery; with the main statutes dealing with corruption being the Public Bodies Corrupt Practices Act 1889; the Prevention of Corruption Act 1906; and the Prevention of Corruption Act 1916. The previous full Audit noted both that the law was 'obsolete, ad-hoc and inconsistent'; and that official processes that might lead to a new statute had been instigated, but were not proceeding rapidly. The inadequacy of the old framework was suggested by the fact that, until 2009, only one company had been successfully prosecuted in the UK courts. In 1998 the Law Commission recommended a new statute; but the Draft Corruption Bill of 2002-03 was rejected by the joint committee charged with scrutinising it. The Law Commission opened a new consultation in 2007 and produced a new draft bill the following year, which eventually became the Bribery Act 2010. The purpose of this act, as stated in the explanatory notes, is: 'to provide for a new consolidated scheme of bribery offences to cover bribery both in the United Kingdom (UK) and abroad'. (For further details and discussion, see Section [2.6.2](#))

6. The withdrawal of the prime minister from the honours system (excluding peerages).

On 23 March 2006 Tony Blair announced that he would no longer make any changes to future honours lists; and this withdrawal seems to have become a convention accepted by subsequent prime ministers. However, it remains possible for parties to make appointments to the House of Lords, meaning that suspicions about the purchase of peerages will remain hard to dispel. (For further details and discussion, see Section [2.6.2](#))

(b) Areas of continuing concerns

1. The lack of a statutory, independent basis for the ministerial code.

Despite provisions, since 2006, for an independent adviser on ministerial interests, the ministerial code is still drawn up by the prime minister (assisted by the cabinet secretary/head of the home civil service); and the premier has ultimate responsibility for enforcing it. The system is not independent, nor does it have a statutory basis. (For further details and discussion, see Section [2.6.1](#))

2. The retention of some self-regulation in parliamentary standards in the Commons, including over prevention of bribery; and total self-regulation in the House of Lords.

While the system of self-regulation for MPs which has operated since time immemorial has been fundamentally challenged via the establishment of IPSA, many forms of regulation continue on a non-statutory basis, conducted by the Commons itself. The basic principles by which MPs are expected to abide are the 'seven principles of public life' (see Case Study [2.6a](#)). In 2001, following recommendations by the Committee on Standards in Public Life, a code of conduct and a mandatory register of interests was introduced in the House of Lords, although it was only accepted by a narrow margin. The system is again based on self-regulation and is overseen by the House of Lords Committee for Privileges and its relevant sub-committees. (For further details and discussion, see Section [2.6.2](#))

3. Difficulties in policing financial probity around the conferral of peerages.

There have long been suspicions that wealthy individuals have been able to purchase honours indirectly (including peerages, which may be seen as an honour but entail membership of the legislature) through donations to political parties. While such a practice could be regarded as a form of bribery, proving direct connections and securing prosecutions is exceptionally difficult. The legal framework prohibiting the sale of honours and peerages is provided by the Honours (Prevention of Abuses) Act 1925. Though this law is more than eighty years old it has only ever resulted in a single prosecution, as long ago as 1933. The so-called 'cash for honours' scandal of 2006-07 highlighted the complexities of investigating suspected corruption in this field. (For further details and discussion, see Section [2.6.2](#))

4. The failure of the Political Parties, Elections and Referendums Act 2000 to resolve long-standing controversies about the regulation of election spending.

The Political Parties, Elections and Referendums Act 2000 represented an important milestone in the regulation of election spending in the UK, providing belated recognition of the need to regulate party, as well as candidate, spending. While the provisions introduced by the act have helped to reduce levels of election spending compared to 1997, spending levels at the last three general elections have remained high by post-war standards (see Figure [2.6a](#)). Moreover, the growth of unregulated spending by candidates outside of the official campaign period, much of it funded by special interests, became a major issue after 2005. While the Political Parties and Elections Act 2009 has gone some way to addressing this latter issue, concerns about a variety of loopholes in the 2000 act persist. (For further details and discussion, see Section [2.6.3](#))

5. Extensive linkages between MPs and large corporations, on a scale which is exceptional among established democracies.

There is a long-standing view that parliament benefits from MPs maintaining 'outside interests', which dates back to the period in which members of the Commons were unpaid. Despite significant increases in MPs' pay, particularly since the mid-1990s, substantial numbers of MPs also act as company directors or as paid consultants. One study has established that corporate-parliamentary connections in the UK are far more extensive than in any other OECD country (see Figure [2.6d](#)). These linkages with major companies are significantly more common among Conservative MPs. For much of the twentieth century, there was an implicit acceptance that these corporate connections on the Conservative benches would be counterbalanced by significant numbers of Labour MPs receiving direct financial sponsorship from trade unions. However, the latter practice ended in the mid-1990s, suggesting that any such implicit counter-balance has ceased to exist. (For further details and discussion, see Section [2.6.4](#))

6. The interchange of personnel between government and the public sector and weaknesses in the way it is regulated.

The separation of public and private interests goes beyond what ministers and officials do while they hold office; the roles which ministers

and civil servants hold before and after they are employed within government also need to be considered. There are democratic and other grounds (for instance efficiency) for arguing that there should be interchange of personnel between government and outside organisations, including in the private sector. However, the volume of traffic passing through the 'revolving door' between government and business has grown substantially in recent decades, and presents particular challenges. (For further details and discussion, see Section [2.6.4](#))

(c) Areas of new or emerging concern

1. The extent of the abuses and weakness of the parliamentary expenses regime.

In spring 2009 details of MPs expenses claims were leaked to the press. The scandal which followed revealed that the expenses system was open to abuse by MPs seeking to subsidise activities that, by any reasonable standard, were not directly associated with them performing their professional duties. There were also a number of claims which violated the rules, as loose as the rules were. Many political careers were destroyed and criminal charges were made against parliamentarians. There are some grounds for arguing that media coverage was distorting and that many individual MPs were subject to an unreasonable level of scrutiny regarding relatively trivial expense claims. But there can be little doubt that genuine and systematic abuse was revealed, not least because of the successful criminal prosecutions that followed (at the time of writing, four MPs and two peers had been imprisoned for crimes such as false accounting and fraud). (For further details and discussion, see Case Study [2.6c](#))

2. The apparent subversion of the rule of law over the BAE Systems/Al-Yamamah investigation.

In September 2003 claims were made in the press that BAE Systems was using a £20 million 'slush fund' for the bribery of Saudi officials. The Serious Fraud Office (SFO) stated that it was considering a criminal investigation. In December 2006 it was reported that the Saudi government had warned that if the investigation was not ceased, the UK would lose the Eurofighter contract. On the 15 December, the SFO announced that it was discontinuing its inquiry. The explanation offered by the SFO was that there was a need 'to balance the need to maintain the rule of law against the wider public interest'. There was also a fear, the attorney general, Lord Goldsmith, explained, 'that continuation of the investigation would cause serious damage to UK/Saudi security, intelligence and diplomatic co-operation' with repercussions for the achievement of UK foreign policy objectives. In April 2008, the high court ruled that the SFO decision was unlawful; but in July 2008 the SFO successfully appealed against this decision in the House of Lords. (For further details and discussion, see Case Study [2.6f](#))

3. A continuing decline in public confidence in the integrity of public life.

The Committee on Standards in Public Life has conducted surveys on public attitudes towards standards in public life in 2004, 2006, 2008 and 2010. Though not dealing specifically with corruption, they provide evidence of declining public confidence in standards. There have been significant rises in dissatisfaction at the way parliament works and MPs in general do their jobs, which may reflect to some extent a lack of faith in public life being free from corruption. (For further details and discussion, see Section [2.6.5](#) and Figures [2.6a](#), [2.6b](#), [2.6c](#) and [2.6d](#))

4. The UK's diminished reputation internationally in relation to corruption.

There is evidence that the UK's international reputation for being relatively free of corruption is declining, at least in relative terms. The Transparency International 'Corruption Perceptions Index' uses a variety of data sources to rank countries based on how corrupt their public sectors are perceived to be. Their data show a marked decline in the UK's absolute and relative performance since 2008. After a long period of being broadly just outside the top ten of countries worldwide, the UK is now placed twentieth out of 178 countries. The UK's ranking is significantly below that of the average for the Nordic countries, the European consensual democracies and the English-speaking Westminster democracies. (For further details and discussion, see Section [2.6.5](#) and Figure [2.6m](#))

Introduction

For a liberal democracy to function effectively it is essential that those in positions of official authority - as well as others operating in the private sector - are not able to exploit their situation for financial or other gain. As the previous Audit noted (Beetham et al., 2002, p. 170), abuses of public power are especially damaging to a democracy. They corrode the bonds of trust between the people and their elected representatives - a process which can in turn undermine the legitimacy that all democratically elected governments require in order to operate successfully. To prevent such a clearly undesirable scenario from developing, it follows, therefore, that there is a need for all democratic states to enforce practical measures for the separation of personal and business interests from public office, and for steps to be taken to protect office holders and the public from involvement in bribery. It is also likely that rules to prevent elections from becoming subordinated to sectional interests will be required; as will separate measures to keep powerful business interests in check. These are safeguards that, taken together, help to keep corruption to a minimum and thus reassure the public that officials can be trusted to act in the

public interest, rather than those of the office holder or any other private grouping.

This chapter considers the extent to which these various objectives are secured, as part of a broad assessment of the integrity of public life in the UK. It considers five key sets of issues, as follows:

- the effectiveness of the rules bearing on the separation of the private interests of public servants from their official duties;
- the effectiveness of provisions for protecting against the involvement of office holders and public officials in bribery;
- how far the system of party finance regulation serves to prevent elections from becoming subordinate to sectional interests;
- the extent to which the power of corporations and business interests over public policy is kept in check;
- the degree to which the public is confident that high levels of integrity are being maintained in public life.

Since the previous Audit, there have been a number of significant improvements on some of these measures. The Parliamentary Standards Act 2009, for example, has established independent machinery for the pay, pensions and expenses of MPs; the House of Lords has been brought under a (different) regime on the conduct of members; the civil service code has been put on a statutory footing; the law on bribery has been clarified by the Bribery Act 2010; and the ministerial code has been published, with an independent adviser established. However, there still remain serious concerns about the separation of public and private interests despite these reforms - particularly in the areas of party political finance, appointments to peerages, 'revolving doors' between Whitehall and the private sector, ministerial advisers and the enforcement of the ministerial code more generally.

These concerns over standards of conduct in public life have not always had the currency that they do at present. Indeed, from the 1940s until the 1970s, a combination of a lack of transparency and high levels of trust had kept public estimations of the standards of conduct in public life fairly high. The perception of UK politics as 'clean' faced its first serious challenge in the 1970s, when it emerged that the architect, John Poulson had won a series of contracts in local government and the nationalised industries through corrupt methods (Doig, 1984). Poulson's associates were eventually revealed to include three MPs, although limited action was taken against only one of them, John Cordle (Baston, 2004). The institutional response to the Poulson affair was focused on local government, notably the (1975) Redcliffe-Maud report reviewing the rules and disclosure for councillors. The parliamentary implications were largely ignored, other than in the establishment of the voluntary (and incomplete) register of members' interests in 1974 and the Select Committee on Members' Interests in 1975.

Public confidence in the integrity of public officials became a salient issue in the mid-1990s, following revelations of 'sleaze' and apparently corrupt behaviour among Conservative MPs during John Major's governments from 1990-97. These scandals shook public trust and provided the impetus for a proliferation of bodies and codes intended to rebuild and fortify standards of conduct in public life. The most prominent institution to appear in this field was the Committee on Standards in Public Life, which since 1995 has played a lead role in monitoring issues concerned with integrity in government and politics, based on its 'seven principles of public life' (for details of which, see Case Study 2.6a).

Case Study 2.6a: Text of The Seven Principles of Public Life

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act 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 seek to 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.

Source: [Committee on Standards in Public Life \(1995\)](#).

Yet, despite the growth of bodies and rules bearing on the conduct of public officials, major political scandals have continued to occur since the 2002 Audit and public confidence has continued to wane. The police investigation associated with the 'cash-for-peerages' allegations in 2006 (see Section [2.6.2](#)) is one such example of apparent corruption, as is the credible evidence of police corruption uncovered during investigations into the 'phone-hacking' affair (see [Home Affairs Select Committee, 2011](#)). The MPs' expenses scandal of 2009 (see Case Study [2.6b](#)) has been quite possibly the biggest of all these scandals - with the damage done to public confidence in political integrity yet to fully repair. In the absence of robust quantitative data on the incidence of corruption, it of course remains difficult to estimate the true extent of corrupt behaviour among public officials in any country. Yet it is clear nevertheless that, in the case of the UK, there remain gaping holes in the patchwork of laws and regulations designed to prevent corruption; and that there is at the very least a very strong *perception* - shared by experts and the general public alike - that standards in public life have declined further in recent years, both in absolute terms and relative to other countries.

2.6.1 Separation of public office from personal interests

How effective is the separation of public office from the personal business and family interests of office holders?

Prior to the 1970s, there was no requirement for the disclosure of private interests in government either at a local, parliamentary or executive level. Indeed, there was hardly any regulation of public office in any recognisable form at all. However, since then the mechanisms for separating public and private interests have become increasingly rule-governed rather than based purely on trust - a gradual change that has occurred partly in response to various political scandals. As noted in the introduction to this section, the mid-1970s witnessed tighter regulation of local government affairs and the first, ineffective steps towards disclosure of interests by MPs, in light of the Poulson affair. In the mid-1990s, meanwhile, the 'cash for questions' scandal and general concerns over 'sleaze' led to the general (or 'Nolan', after Lord Nolan, the first chair of the Committee on Standards in Public Life) principles of public life (for which, see Case Study [2.6a](#)) and tighter regulation of MPs. This was followed soon after by the Blair government's legislation pertaining to political finance (most notably, the Political Parties, Elections and Referendums Act 2000) and the establishment of the Standards Board for England through the Local Government Act 2000, to oversee local government. In the late 2000s, the fallout from the 'expenses scandal' prompted the introduction of a far-reaching and detailed set of regulations for MPs. Rules for ministers have also been published since 1992, ultimately becoming the ministerial code, but remain less independent and transparent than those for other areas of public life. This section examines the extent to which these rules are, cumulatively, effective at enforcing standards.

The ministerial code

Propriety regulation for ministers is underpinned by the constitutional doctrine of ministerial responsibility (Marshall, 1989). Under this doctrine, ministers are expected to inform and explain to the house about their actions; apologise for errors; take remedial action where required; and, ultimately, resign if necessary ([Gay and Powell, 2004](#)). During the premiership of John Major (1990-1997), there were nine calls for resignations over financial scandals, five of which were heeded; while under Tony Blair (1997-2007), the respective figures were 21 and four. For issues classified as 'personal error', meanwhile, the figures are (Major) 17 and four; and (Blair) 28 and four ([Dowing and Subrahmanyam, 2007](#)). The clear trend, during this period, was therefore towards more demands for resignations with a lower proportion of

them being successful. There are different ways of interpreting this tendency. It could be, for instance, that there was a genuine increase in inappropriate behaviour, accompanied by increased resistance to resignation; or that there was simply more scrutiny of the personal activities of ministers, to which the Blair government - mindful of the experience of Major - was reluctant to yield. A part of the problem here is that, like various other features central to the unwritten UK constitution, the doctrine of ministerial responsibility is not clearly defined and its interpretation in any given circumstance falls to the judgement of the particular minister involved (as well as the prime minister, who can remove ministers from office). If we do not know precisely what the rules are, it is hard to make judgements about their application.

The publication of the ministerial code ([Cabinet Office, 2010b](#)) since the 1990s has offered some public clarification of the appropriate conduct of ministers. This document has its origins in the beginnings of systematized cabinet government, as introduced by David Lloyd George after becoming prime minister during the First World War in 1916. The embryonic code grew in length and complexity over time, often in response to particular problems and scandals, but was not introduced into the public domain (under the name of 'Questions of Procedure for Ministers') until 1992, as part of the open government agenda of the then-prime minister John Major. In 1997, the document was re-issued by Tony Blair under its current title, since which time it has been used increasingly by the media as a means of holding ministers responsible for conduct perceived as inappropriate (for the history of the code see Baker, 2000. For its use by the media, see also [Blick and Hennessy, 2011](#)).

In this way, the code *does* provide opportunities for achieving informal accountability. However, it is lacking as a means of ensuring more formal responsibility, for two reasons. First, in the words of the 2002 Audit, 'the rules governing the conduct of ministers belong in the realm of the Prime Minister,' (Beetham et al., 2002, p. 174). Since 2006, there has been an independent adviser on ministerial interests. However, the adviser can only investigate issues referred to him or her by the prime minister, who draws up the code (assisted by the cabinet secretary/head of the home civil service) and has ultimate responsibility for enforcing it. Second, the system lacks a statutory basis. Given that the civil service code, as discussed below, now has a footing in an act of parliament, the ministerial code is beginning to appear increasingly anomalous in this respect. The code itself is arguably weakened further as a guarantor of standards because of the disparate range of matters with which it deals. As well as integrity issues, other important and divergent subjects are covered such as the approach to cabinet business and the presentation of policy.

The 2010 ministerial code ([Cabinet Office, 2010b, p. 13](#)), states that: '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'. In a subsequent section, which provides detailed guidance on a range of issues associated with how ministers should prevent such conflicts of interest, the document emphasises:

'It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, taking account of advice received from their Permanent Secretary and the independent adviser on Ministers' interests' ([Cabinet Office, 2010b, p. 14](#)).

One means of assessing the merits of the code as a means of preventing such conflicts of interest is through a consideration of the Fox/Werritty scandal. In autumn 2011, revelations emerged about the role of Adam Werritty, an informal aide to Liam Fox, then secretary of state for defence. Fox was found to have violated the ministerial code (see Case Study 2.6b for details); but the way in which the scandal unfolded illustrated defects in the system of accountability associated with this document. First, not only had Fox felt able to behave in this way, but the activities which gave cause for concern took place over more than a year, despite concerns within the Ministry of Defence. Second, when information first became public suggesting a clear breach of the code, Fox did not feel obliged immediately to resign. Third, the matter was then referred not to the independent investigator, Sir Philip Mawer, but the cabinet secretary, Sir Gus O'Donnell, to report. The cabinet secretary, as a civil servant, has in practice no constitutional status separate from the government of the day and there are clearly problems with the idea that this office-holder should be engaged in an investigation which could be seen as quasi-judicial, 'clearing' or 'condemning' a minister. Fourth, Fox's ultimate resignation pre-empted O'Donnell's report and was prompted by further media revelations about his and Werritty's relationship. This development underlined that compliance with the ministerial code seems to be reliant to an unhealthy extent upon the work of investigative journalists rather than official mechanisms or the self-restraint of ministers.

It is not clear that the code itself will be amended at all to reflect these events; but even this change, if it occurred, would seem to be insufficient to eliminate the structural problems revealed by the scandal. More broadly, this episode suggested difficulties with the emphasis within UK constitutional doctrines on the resignation of a particular minister as closing off an issue. In the case of Fox, it enabled the government to seek to end scrutiny of matters which were wider in their scope than the personal conduct of a particular secretary of state, taking in matters discussed elsewhere in this section, such as the ability of outside commercial interests and individuals to use their financial resources to influence government (see Sections [2.6.3](#) and [2.6.4](#)).

Case Study 2.6b: The cabinet secretary investigation into the Liam Fox/Adam Werritty scandal and the ministerial code

Liam Fox MP was secretary of state for defence in the coalition government from May 2010 until his resignation in October 2011. His departure from office followed the uncovering by the Guardian, and subsequently other media outlets, of various details about the role performed by his informal aide, Adam Werritty.

The features of the relationship between Fox and Werritty that engaged the stipulations of the code regarding conflicts of interest, real or perceived, were identified by the official investigation by the cabinet secretary as:

- Werritty's visits to Fox in the Ministry of Defence main building on 22 separate occasions, including a meeting arranged by Werritty with a representative of the Sri Lankan ministry of foreign affairs; and with the ambassador designate to Israel. The cabinet secretary, Sir Gus O'Donnell noted that this latter meeting highlighted the 'blurring of lines between Dr Fox's private and official responsibilities which he has since acknowledged was not appropriate and not acceptable'.
- The 18 overseas visits by Fox on which he met with Werritty. During some of these visits, Werritty was present with Fox at meetings with foreign officials, including two at which, according to O'Donnell 'a member of his [Fox's] private office should have been present because of the likelihood that government business would be discussed'. Werritty was offered a private office presence, but declined it. O'Donnell noted the existence of a 'clear risk that some of Mr Werritty's international contacts may have gained the impression that he was speaking for and/or representing the UK Government'.
- The access that Werritty had to details of Fox's diary, which raised security concerns.
- Funding for Werritty's activities. Werritty was supported by what he described as a 'not for profit' organisation, Pargav. Pargav had various corporate and individual donors, some of whom had previously given funds to Mr. Fox and the Conservative Party. Werritty had his own company, Tohida Ltd., which invoiced Pargav for Werritty's services. Fox arranged a meeting between a donor and Werritty.
- Werritty's use of business cards describing himself as an adviser to Fox.
- O'Donnell concluded that Fox had clearly violated the ministerial code; and that there was a need for clearer guidance around these issues. Both Fox's private office and permanent secretary had previously raised concerns about the role of Werritty, but Fox's response was restricted to instructing Werritty to stop distributing the business cards. The Cabinet Office was unaware of Werritty's role.

Source: [Cabinet Secretary \(2011\)](#)

The civil service

The UK civil service is unusual internationally in that it has a strong tradition of its staff being appointed by open competition on a basis of merit, often remaining within Whitehall for their entire careers. Officials generally remain in particular posts regardless of changes in the holder of ministerial office, or even the party of government. The spoils system of the US, which sees mass clearouts of officials upon changes of administration; or the cabinet system of France, where ministers determine their own inner teams, have never been introduced to the UK (for a history of the civil service and its values, see Hennessy, 2001). The so-called Northcote-Trevelyan report of 1854 recommended an act of parliament to underpin civil service values, but this idea was not acted upon until 2010, through the [Constitutional Reform and Governance Act 2010](#), which states the general principle that (part 10 [2]): 'a person's selection must be on merit on the basis of fair and open competition'.

The unusual nature of bureaucratic employment in the UK has been criticised as associated with a civil service closed to the outside world, serving its own interests rather than implementing the policies of the democratically elected government of the day, and lacking in expert knowledge (see also, Section [2.3.2](#)). But its values have served as a barrier to corruption, restricting (but, it should be emphasised, not eliminating) both the development of problematic links between civil servants and outside commercial interests and the extent to which ministers can engage in 'cronyism' (that is, finding employment for personal allies or friends). However, despite the statutory enshrinement of open competition on merit, challenges are posed to the integrity of the civil service by the increased use of special advisers, who are appointed on temporary contracts on the basis of individual ministerial patronage (see Blick, 2004; and Section [2.3.2](#)); and more generally by the 'revolving door' between Whitehall and employment in the private sector (see Section [2.6.4](#)).

The 'core values' of the civil service, as contained in the civil service code ([Cabinet Office, 2010a](#), first issued in 1996) underline how civil servants are expected to ensure that their role as public officials is not compromised by personal business or family interests. One of the

four core values, 'integrity', is defined as 'putting the obligations of public service above your own personal interests'. Another is 'honesty', which includes not being 'influenced by improper pressures from others or the prospect of personal gain'. The status of the civil service code was arguably strengthened when, in 2010, the [Constitutional Reform and Governance Act 2010](#) provided it with a statutory basis for the first time. These principles are also reinforced by section four of the civil service management code (CSMC) which deals with matters of 'conduct and discipline'. This document, which also has a statutory basis under the [Constitutional Reform and Governance Act 2010](#), sets out the general principle 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. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share a civil servant's private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed' ([Cabinet Office, 2011, p.19, para 4.1.3c](#)).

Parliament

Following the MPs' expenses scandal (see Case Study 2.6c), the self-regulation system for MPs that has operated since time immemorial was ended, to some extent, by the establishment of the Independent Parliamentary Standards Authority. However, others aspects of regulation continue on a non-statutory basis, conducted by the Commons itself (for issues involving bribery of MPs, see Section [2.6.2](#)).

Case Study 2.6c: The MPs' expenses scandal

With the provisions of the Freedom of Information Act (for details of which, see Section [2.3.5](#)) due to come into effect on 1 January 2005, there already appeared to be a battle looming over the secrecy surrounding the expense claims of MPs. In October 2004, the speaker of the House of Commons had published some information about MPs' allowances, limited to wide categories and total amounts paid. However, the disclosure failed to satisfy those journalists and members of the public with an interest in the subject; and once the Freedom of Information Act came into force at the turn of the year, hundreds of inquiries for more detailed information soon began to build. Yet despite this, parliament consistently refused to reveal any in-depth information on the expenses claims of MPs - preferring instead to fight through lengthy legal proceedings and appeals to the Information Commissioner's Office and the Information Tribunal. Indeed, during the 2006-07 parliamentary session, there was even a failed attempt to exempt both houses from the Freedom of Information Act through a private member's bill.

Eventually, information pertaining to MPs' expenses was placed into the public domain via a leak to the press in May 2009. This revealed what some had perhaps suspected: namely, that the expenses system was being routinely abused by many MPs seeking to subsidise activities that, by any reasonable standard, were not directly associated with their professional duties. Most of these claims did not technically break the rules. However, some did and there were even a small number of parliamentarians against whom criminal charges were made (at the time of writing, four MPs and two peers have been imprisoned for crimes such as false accounting and fraud, and many more political careers have been ruined). The subsequent review of the additional costs (or 'second homes') allowance by Sir Thomas Legg (see [House of Commons Members Estimates Committee, 2010](#)) identified a number of flaws in the system of expenses that might have accounted for the widespread abuse uncovered, including, in particular, the finding that 'there was no audit of any kind of the individual use by MPs of the ACA or any other Parliamentary Allowance'.

The public furore over MPs' expenses prompted far-reaching and almost immediate changes to the House of Commons' system of self-regulation. The Parliamentary Standards Act 2009 was enacted in July, chiefly to establish an independent body, the Independent Parliamentary Standards Authority (IPSA), to regulate the expenses system; but also to make provision for a separate commissioner for parliamentary investigations to investigate alleged breaches of any new rules introduced. However, the remit of the former was revised, and the latter replaced with a compliance officer within IPSA, following criticisms of the 2009 Act by the [Committee on Standards in Public Life \(2009\)](#) and its subsequent amendment by the Constitutional Reform and Governance Act 2010. Yet the main thrust of the original law remains the same: MPs themselves no longer have any role in determining the details of the expenses scheme. Under the law as it now stands, it is IPSA that has responsibility for drawing up and administering the scheme for MP expenses, as well as for monitoring compliance with the scheme, paying MPs' salaries and pensions, and setting MPs' salary levels.

The parliamentary commissioner for standards oversees the application of the code of conduct and other rules relating to MPs, including registration of their financial interests. The commissioner for standards also investigates complaints about any alleged breaches of these rules by MPs, and reports these findings to the Committee on Standards and Privileges, which determines what action, if any, should be

taken as a result. Table 2.6a provides an overview of the cases referred to the parliamentary commissioner for standards from 2002-03 to 2010-11. The figures show a clear increase in the number of complaints made against MPs peaking, unsurprisingly, in 2009-10, the period covered by the MPs' expenses crisis. It is clear from the more detailed figures which are available for the period after 2005-06 that the vast majority of complaints are deemed to require no further action. Among those complaints which are investigated, generally between one-quarter and one-third of the total, a few dozen are typically upheld each year. In both 2009-10 and 2010-11, two cases resulted in court cases - again reflecting the impact of the expenses scandal.

Table 2.6a: Cases referred to the parliamentary commissioner for standards 2003-2010

	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
Complaints	52	96	118	129	176	226	192	317	115
Investigated and resolved	-	-	-	15	74	51	46	51	33
Upheld	-	-	-	0	48	22	33	34	24
Not upheld	-	-	-	15	26	29	16	17	7
Court	-	-	-	0	0	0	0	2	2

Note: pre-2005 figures were compiled on a different basis. 'Court' refers to proceedings suspended or abandoned because of action in the criminal courts.

Source: [Annual reports of the Parliamentary Commissioner for Standards, 2002-03 - 2010-11](#).

In 2000, following recommendations by the Committee on Standards in Public Life, a committee established under the then-leader of the House of Lords, Lord Williams of Mostyn, proposed the introduction of a code of conduct for peers; and a mandatory register of interests. This package was accepted by the Lords - but by only a narrow margin - in 2001. The system is overseen by the House of Lords Committee for Privileges and its relevant sub-committees - in other words, self-regulation. Disciplining peers, who are unsalaried and cannot be stripped of their peerages without an act of parliament - which has not happened since 1919 - is difficult.

In 2008, the Committee for Privileges recommended more detailed guidance on conduct for peers. Early in 2009, a press investigation exposed four peers as offering to secure amendments to legislation in exchange for large sums of money. The police decided not to pursue charges. Alongside the MPs' expenses scandal there were a number of allegations in mid-2009 regarding improper expenses claims by peers. In May 2009 a House of Lords leader's group was convened to consider the code of conduct and related issues. Its recommendations, accepted by the Lords, included the creation of a commissioner for standards, functionally independent but appointed by the house, the remit of whom would include investigating complaints about financial support arrangements along with complaints under the code. The leader's group also proposed that there should be a ban on peers holding 'parliamentary consultancies'; and that the code should be shorter and more general, but accompanied by more detailed guidance. However, the speaker's committee decided that the House of Lords should not be brought within the remit of IPSA (see [Gay, 2010](#)).

The code of conduct for the House of Lords, as it came into force after the 2010 general election, states the general principle of separation between private and public interests in the following terms:

'In the conduct of their parliamentary duties, Members of the House shall base their actions on consideration of the public interest, and shall resolve any conflict between their personal interest and the public interest at once, and in favour of the public interest' ([House of Lords, 2010, p. 3](#)).

Local government

At local authority level, a variety of measures are currently in place to ensure a separation of public and private interests, although wholesale reform of these provisions has recently been introduced via the Localism Act 2011. There is no code of conduct for local authority employees for the whole of England, although the introduction of such a document, which exists in Wales, has been considered. Propriety is enforced by contracts and in some cases codes issued by individual authorities. However, a model code of conduct (see [The Local Authorities \[Model Code of Conduct\] Order 2007](#)) for local authority members (a consolidation of four different local level codes that was introduced in 2007) currently applies in England. With a basis in statute (provided by the Local Government Act 2000), this code is

currently enforced in England by Standards for England (formerly the Standards Board).

Since May 2008, following the [Local Government and Public Involvement in Health Act 2007](#), complaints about possible breaches of the code have been devolved to local authority level standards committees, with Standards for England only intervening in the most serious instances. The text of the model code of conduct states that council members must (paragraph six) 'not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage'. Part two of the code defines 'personal interests' and sets out in detail the requirements for their declaration and whether they require withdrawal from particular proceedings. Part three provides for the registration of interests (for excerpts from the model code of conduct on the handling of personal interests, see Case Study 2.6d).

Case Study 2.6d: Local authority members' model code of conduct on personal interests

Part two of the model code of conduct ([The Local Authorities \[Model Code of Conduct\] Order 2007](#)) provides a wide and detailed definition of 'a personal interest in any business of your authority' and then requires that (9 [1]):

'Where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent'.

The code then goes on to note that (12 [1]):

Where you have a prejudicial interest in any business of your authority -

(a) you must withdraw from the room or chamber where a meeting considering the business is being held -

[...]

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

Finally it is noted that (13 [1]):

you must, within 28 days of -

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later), register in your authority's register of members' interests (maintained under section 81[1] of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2)...you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

The coalition has opted to undertake major reform of these provisions. The Localism Act, which received Royal Assent in November 2011, will abolish Standards for England; remove the national code of conduct for councillors; dispense with the requirement for local authorities to have a standards committee; allow councils to choose whether or not they wish to have a local code; and create a criminal offence relating to failure to register or declare interests.

A recent report published by Transparency International UK (TIUK) has raised concerns about these plans for English local government ([Krishnan and Barrington, 2011](#)). The authors take the general view that 'local government was the most tightly regulated area of public life

and that standards of ethical conduct in government were very high'. However, the report notes that the proposal to replace a statutory with a voluntary code have attracted criticism, and that the Localism Bill would create 'inconsistencies between England and the rest of the UK and will also lead to increased pressures on local government ombudsmen'. They also concluded that 'the proposed abolition of Standards for England and introduction of a voluntary code of conduct for local government could have serious adverse consequences for ethical standards in English local government' ([Krishnan and Barrington 2011, p. 12](#)). The same authors also raised the issue of the coalition plan, again through the Localism Bill (now Act), to abolish the Audit Commission, which has a role in auditing and investigating corruption and fraud in local government and the National Health Service. The report recommended 'that the proposed abolition of the Audit Commission should be put on hold until there has been proper consultation and a thorough assessment of alternative options for the auditing of local government and the NHS' ([Krishnan and Barrington, 2011, p. 13](#)).

2.6.2 Protection of office holders from involvement in bribery

How effective are the arrangements for protecting office holders and the public from involvement in bribery?

While bribery involving office holders and the public is not a day-to-day part of life in the UK in the way it is in some other countries, there are nevertheless some grounds for concern in this area. First of all, the legislative framework for the prevention of bribery has long been inadequate, and has only recently been replaced by a new act of parliament, which has yet to be tested. Second, there are certain parts of the public sector - including prisons and parliament - in which arrangements for the prevention of bribery are inadequate.

The legal framework

Before the passing of the [Bribery Act 2010](#), the legal framework in this area was provided by the common law offences of bribery and attempted bribery; with the main statutes dealing with corruption being the Public Bodies Corrupt Practices Act 1889; the Prevention of Corruption Act 1906; and the Prevention of Corruption Act 1916. The previous full Audit noted both that the law was 'obsolete, ad-hoc and inconsistent' and that official processes that might lead to a new statute had been instigated, but were not proceeding rapidly enough (Beetham et al., 2002, p. 179). In 1998 the Law Commission recommended a new statute; but the Draft Corruption Bill of 2002-03 was rejected by the joint committee charged with scrutinising it. The Law Commission opened a new consultation in 2007 and produced a new draft bill the following year, which eventually became the [Bribery Act 2010](#). The purpose of this act, as stated in the explanatory notes, is: 'to provide for a new consolidated scheme of bribery offences to cover bribery both in the United Kingdom (UK) and abroad.' It creates:

'two general offences. The first covers the offering, promising or giving of an advantage (broadly, offences of bribing another person). The second deals with the requesting, agreeing to receive or accepting of an advantage (broadly, offences of being bribed). The formulation of these two offences abandons the agent/principal relationship on which the current law is based in favour of a model based on an intention to induce improper conduct. The Bill also creates a discrete offence of bribery of a foreign public official and a new offence where a commercial organisation fails to prevent bribery' ([House of Commons, 2010, p. 1](#)).

It is clearly too soon fully to judge the effectiveness of the act, which came into force in July 2011. The potential implications of the act are certainly significant. It has been described by one commentator as being among the strictest legislation relating to bribery internationally with an approach which is 'very broad in scope, capturing both bribery within the private sector and bribes paid to overseas government officials' ([Wilkinson, 2010, p. 1](#)). The same author also notes that the 'jurisdictional reach' of the act is extensive in that it allows 'almost no hiding place for companies which for some misguided reason decide to pay bribes' ([Wilkinson, 2010, p. 1](#)). However, as we discuss in Section [2.6.4](#), there are issues concerned with the implementation of the act, which may restrict its effectiveness in practice.

Preventing bribery in parliament

If MPs are bribed to pursue particular courses of action in the house, a serious attack on democratic principles has taken place. The danger of such malpractice is real and longstanding, as indicated by the attempts to prevent it dating back over the centuries.

The 2002 Audit noted that a problem with the then-existing legal framework for preventing bribery was that 'there is doubt whether MPs accepting bribes can be dealt with under the statutory framework or the common law - which means that MPs can continue to claim the protection of parliamentary privilege, with punishment for parliamentary contempt resting with the House itself' (Beetham et al., 2002, p. 179). Parliamentary privilege is in part derived from the Bill of Rights 1689. Article IX of the Bill of Rights states that: 'freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament'. This article seems to have the effect of shielding MPs from prosecution for taking bribes in return for pursuing certain courses of action in parliament, in addition to the more appropriate democratic purpose of protecting their freedom of speech in the chamber. In 1999, the Joint Committee on Parliamentary Privilege recommended the introduction of legislation to clarify privilege, but this proposal was not acted upon. One of the committee's recommendations thus not introduced was that 'Members of both Houses should be brought within the criminal law of bribery by legislation containing a provision to the effect that evidence relating to an offence committed or alleged to be committed under the

relevant sections shall be admissible notwithstanding article 9' ([Joint Committee on Parliamentary Privilege, 1999](#)).

Initially it was intended that the new Bribery Act would address the issue of parliamentary privilege, but ultimately it did not. Consequently, in the area of prevention of bribery, members of parliament are self-regulated. While the Independent Parliamentary Standards Authority (IPSA) was at first charged with overseeing members' financial interests, on the advice of the Committee on Standards in Public Life this role was removed. The parliamentary commissioner for standards and the Committee for Standards and Privileges play the central role in enforcing the code of conduct and various other rules. The Guide to the Rules relating to the conduct of Members ([House of Commons, 2009](#)) explains that 'paid advocacy' - including through speaking, voting, asking questions, tabling motions, introducing bills or moving amendments or encouraging colleagues or ministers to likewise - is prohibited. However, the system does not:

'prevent a Member from holding a remunerated outside interest as a director, consultant, or adviser, or in any other capacity, whether or not such interests are related to membership of the House. Nor does it prevent a Member from being sponsored by a trade union or any other organisation, or holding any other registrable interest, or from receiving hospitality in the course of his or her parliamentary duties whether in the United Kingdom or abroad' ([House of Commons, 2009, p. 34](#)).

The rules on disclosure were tightened with effect from 1 July 2009, requiring all MPs to register, for the first time, matters such as the precise amount of each individual payment received (rather than the band of earnings into which the payment fell) and the number of hours worked with respect to the payment.

The development of the code of conduct for the House of Lords and the establishment of a commissioner for standards are discussed above. The code clarifies that peers are forbidden from accepting 'any financial inducement as an incentive or reward for exercising parliamentary influence' or from seeking to profit from their membership of the house 'by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services' ([House of Lords, 2010, p. 4](#)). The code of conduct also sets out that peers must:

'register in the Register of Lords' Interests all relevant interests, in order to make clear what are the interests that might reasonably be thought to influence their parliamentary actions [...] declare when speaking in the House, or communicating with ministers or public servants, any interest which is a relevant interest in the context of the debate or the matter under discussion' ([House of Lords, 2010, p. 4](#)).

Bribery is clearly a potential problem in the House of Lords as well as the Commons. As noted above, in mid-2009 allegations were made about four peers offering to secure amendments to legislation in exchange for payment. While the police decided not to pursue the case, the Committee for Privileges investigation found that a number of violations of the code of conduct, proposed or actual, had taken place. In theory, parliament has the power to fine and imprison members. But in practice the punishments the House of Lords chose to use were only suspensions for the duration of the parliament (which some, including the then attorney general, argued it did not have the power to do) or inviting or requiring peers to apologise to the house ([House of Lords Committee for Privileges, 2009](#)).

The purchase of honours?

There have long been suspicions that wealthy individuals have been able to indirectly purchase honours (including peerages, which may be seen as an honour but entail membership of the legislature) through donations to political parties. While such a practice could be regarded as a form of bribery, proving direct connections and securing prosecutions is exceptionally difficult.

The legal framework prohibiting the sale of honours and peerages is provided by the Honours (Prevention of Abuses) Act 1925. Though this law is more than eighty years old it has only once successfully been used to prosecute someone, as long ago as 1933 ([Public Administration Select Committee, 2006](#)). The so-called 'cash for honours' scandal of 2006-07 highlighted the complexities of investigating suspected corruption in this field. Late in 2005, reports began to emerge that certain nominees to the House of Lords had been blocked by the House of Lords Appointments Commission. In March 2006, the names of these nominees came into the public domain. All four had made undeclared loans to the Labour Party in 2005. A police investigation commenced, taking in the activities of other parties as well. Over 16 months there were 90 interviews with representatives of Labour (35), the Conservatives (29) and the Liberal Democrats (four). Amongst those questioned were the then-prime minister, Tony Blair, the former leader of the opposition, Michael Howard, and various prime-ministerial aides (some of whom were placed under caution by the police). The investigation cost around £1 million. A file was handed over to the Crown Prosecution Service on 2 July 2007; but no one was charged ([Public Administration Select Committee, 2007b](#)).

On 23 March 2006, Tony Blair announced that he would no longer make any changes to future honours lists; and this withdrawal seems to have become a convention accepted by subsequent prime ministers. However, it remains possible for parties to make appointments to the House of Lords, meaning that suspicions about the purchase of peerages will remain hard to dispel (see [Public Administration Select Committee, 2007b](#)).

Corruption in prisons

Transparency International UK has described an apparent lack of concern within the prison service, the Ministry of Justice and parliament towards corruption in prisons ([Krishnan and Barrington, 2011](#)). Problems include involvement in organised crime and intimidation and threats from unsatisfactorily trained staff. A leaked police report in 2006 suggested there were about 1,000 corrupt prison officers and a further 600 who had inappropriate involvement with a prisoner ([Krishnan and Barrington, 2011](#)). Transparency International UK identifies two key issues. First, there is a problem with prisoners - assisted by staff - being given access to communications technology in order to continue organised criminal activities from inside prison. Second, there is also an issue of contraband being brought into prisons, often seemingly with the help of staff. A systemic problem exists because, in return for obtaining cooperation from prison officers and other personnel, organised criminals agree to 'behave themselves' and help the institutions achieve their targets. Yet in the midst of these problems, resources dedicated to preventing corruption have over time been reduced ([Krishnan and Barrington, 2011](#)).

2.6.3 Regulation of election finance

How far do the rules and procedures for financing elections, candidates and elected representatives prevent their subordination to sectional interests?

There is widespread agreement that democracy requires some form of control over the amount of money parties and candidates can spend, as well as what they can spend that money on, in attempting to win votes. Admittedly, there is no consensus about whether higher levels of spending *per se* provide political parties with any clear electoral advantage. Yet, there is general recognition that some degree of regulation of election expenditure is essential if elections are to be 'free and fair'. As Birch (2005, pp. 6-7) argues, 'if there is one way in which modern democratic politics can be said to be manifestly unfair, it is in the financial requirements of standing for office in many countries and the advantages afforded candidates and parties by campaign spending'. To this we should also add that unregulated election spending carries the risk of corrupt electoral practices, including the bank-rolling of campaigns by special interests, or attempts to bribe or reward voters in return for their support.

Since the role of money impinges on various aspects of democratic elections, some of these issues concerning party and election finance are dealt with in other sections of this Audit. For instance, the extent to which candidate and party spending rules provide for a relatively level-playing field in communications with voters is considered in the chapter on elections (see Section [2.1.3](#)). Likewise, the chapter on political parties considers the extent to which the general system of party funding - and, in particular, the regulation of donations - prevents the subordination of parties to special interests (see Section [2.2.4](#)). In order to complement the analysis offered in these other sections, the focus here is on two specific issues. First, we examine the operation of the rules and procedures governing the financing of election campaigns both locally (by candidates) and nationally (by parties). Second, we summarise the current arrangements for the payment of MPs and consider whether any particular issues are raised by evidence of MPs receiving financial remuneration from outside interests.

Financing elections and candidates

Much election finance legislation internationally takes its original inspiration from the UK, where reforms were introduced in the nineteenth century to counter the widespread use by candidates of methods intended to 'buy' votes, either directly or indirectly. The Corrupt Practices Act 1854 outlawed bribery, treating and intimidation at elections, and its consolidation by the Corrupt and Illegal Practices Act 1883 saw the introduction of limits on individual candidate expenditure. These limits on what candidates could spend on an election campaign not only helped tackle malpractice, but also served to create a relatively level playing-field for electoral competition. The focus here is on the latter of these concerns, since it is this which dominates contemporary debates about the rules surrounding election spending, rather than issues associated with the possible subordination of election candidates to improper interests. It should, of course, be noted that there are significant questions concerning the influence of outside interests which fund parties and candidates, and these are dealt with in our discussion of the 'big donor culture' (see Section [2.2.4](#)).

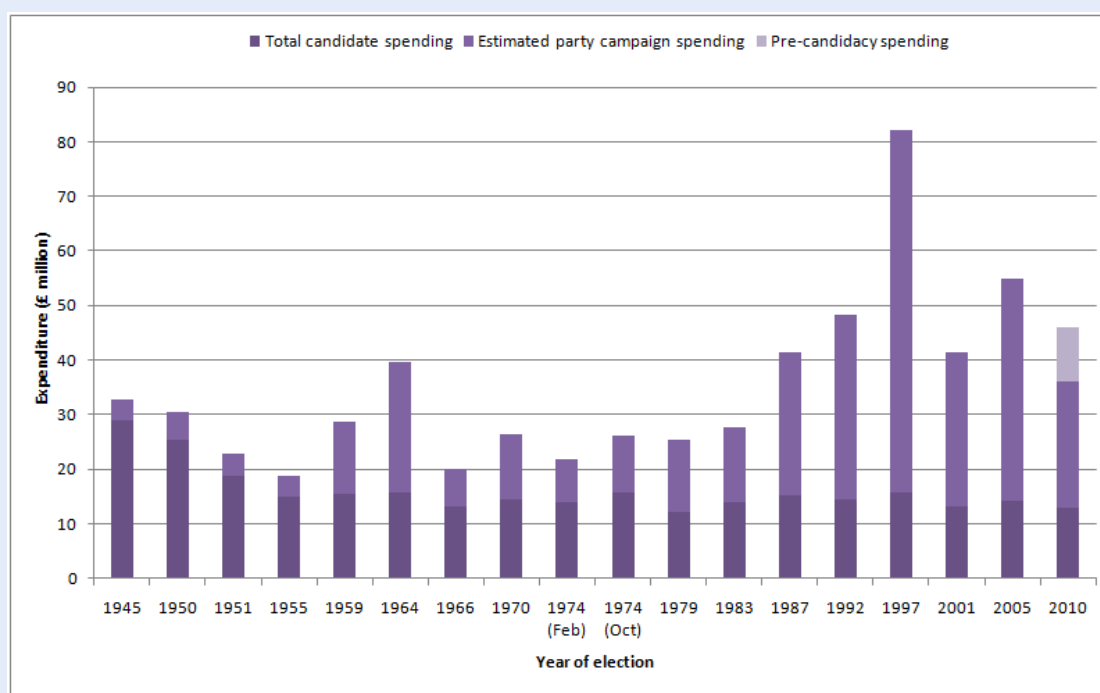
As with many other aspects of UK electoral law, the Victorian provisions for regulating candidate spending have been left largely untouched, and remain in place today with the spending limit up-rated to take account of inflation at each election. Currently, candidates are typically limited to an expenditure of £10-12,000 during the campaign period (the precise amount depending on the number of electors in a constituency and whether it is predominately rural or urban in character). However, the 1883 legislation has also been supplemented in two significant ways over the last decade. First, the Political Parties, Elections and Referendums Act (PPERA) 2000 introduced limits on national expenditure by political parties during election campaigns. Second, the Political Parties and Elections Act 2009 made provisions for supplementary limits on what candidates could spend prior to the start of the official campaign.

The introduction of limits on national party spending in 2000 was a belated recognition of the growth of unregulated election spending during the second part of the twentieth century. Following the clarification in the case of *Rex v Tronoh Mines* (1952) that candidate

spending limits applied only to expenditure supporting a named candidate, the doors were opened for political parties and, indeed, 'third parties' to spend unlimited amounts provided that it related to the national campaign.

The impact of the *Rex v Tronoh Mines* judgement is shown in Figure 2.6a, which presents the broad trends in party and candidate spending at general elections since 1945, measured in 2005 prices. While the data on which this figure is based are subject to a number of caveats, some very clear trends can be identified. First, combined expenditure by election candidates, when measured in real terms, fell sharply between 1945 and 1955 but thereafter stabilised, with only very minor fluctuations between £14 million and £15 million (measured in 2005 prices). Second, the balance of election spending has shifted from expenditure incurred by candidates *locally* to expenditure incurred by parties *nationally*. In 1945, individual candidates accounted for around 90 per cent of total election spending, but by 1997, the candidate share of election spending had fallen to approximately 20 per cent. Third, central spending by political parties on election campaigns began to grow from the 1950s onwards, although it was from the late 1980s that this form of expenditure began to rise rapidly, peaking in 1997, when the three main parties spent a combined total of almost £70 million in 2005 prices.

Figure 2.6a: Estimated spending at UK general elections, 1945-2010 (measured in 2005 prices)



This figure is presented primarily to illustrate broad trends, particularly in relation to party spending. Political parties were not required to report on their levels of election spending prior to 2001. Data on party spending for the period 1945-1987 are derived from a common methodology (Pinto-Duschinsky 1981, 1985, 1989), although the author of these works notes particular difficulties estimating Conservative spending in 1945, 1950 and 1966. Since 2001, figures for party spending have been compiled by the Electoral Commission; changes in regulations since 2001 render strict comparison between 2001 and 2005 problematic. All spending has been converted to 2005 prices using the Retail Price Index.

Sources: Ewing (2007); Pinto-Duschinsky (1981, 1985, 1989); Linton (1993); Committee for Standards in Public Life (1998); Electoral Commission (2005); [Electoral Commission \(2011\)](#).

Election spending by political parties dropped sharply in 2001. In part, this fall in spending was due to the introduction of caps on national party spending in 2000, with no party able to spend more than £20m during the regulated period (which, for general elections, is the 365 day period that ends with the date of the poll). However, since all three main parties spent well within the imposed limits in 2001, it is highly likely that the sharp drop in spending reflected mostly on the perilous financial state of the parties. Spending rose again in 2005 and, as Figure 2.6a shows, recent UK general elections have remained expensive by historical standards. Indeed, Figure 2.6a suggests that the six most expensive post-war elections have all been fought since 1987; although the 2010 general election only falls into this category by virtue of the inclusion of 'pre-candidacy spending' limits (see below for further details).

Some have portrayed the patterns of election spending outlined above as the culmination of a 'spending arms race' between Labour and

the Conservatives (c.f. Ewing, 2007), although the accuracy of this description has been disputed by others (most notably, [Pinto-Duschinsky, 2008](#)). What is beyond dispute, however, is that overall election spending rose from 1987 onwards because of Labour's attempts to match Conservative spending levels, particularly with regard to advertising (see Section [2.1.3](#)). Concerns that escalating election spending was working against the principles of a level-playing field were a significant motivation for the introduction of expenditure limits under the PPERA 2000. However, it remains questionable whether the regulations have been effective in this regard. Spending by the two main parties continues to dwarf that committed by the Liberal Democrats or the smaller parties and the 2010 general election saw the Conservatives out-spend Labour by a ratio of 2:1.

A further concern about the effectiveness of the regulations arose from Michael Ashcroft's strategy at the 2005 and 2010 general elections of channelling financial support to prospective Conservative candidates contesting marginal seats. Ashcroft, who was the party's treasurer from 1998-2001 and deputy chairman from 2005-10, worked in concert with other donors to fund 'long campaigns' by candidates in the period before the official campaign began. The strategy was based on extensive evidence that local campaigning by candidates is highly effective in securing votes and underpinned by opinion polls commissioned by Ashcroft himself. Moreover, under the definitions specified in PPERA 2000, spending undertaken by adopted candidates prior to the dissolution of parliament was not subject to any cap. Labour and Liberal Democrat candidates contesting marginals where this 'Ashcroft money' had been invested were generally unable to match the levels spent by their Conservative opponents over the long campaign. Despite the Conservatives making very little headway at the 2005 general election, the success of Ashcroft's strategy appeared to be evidenced by the impressive swings from Labour to the Conservatives in a number of key marginals, as well as in the successful defence of a number of Tory-held marginals from Liberal Democrat challengers ([Wilks-Heeg, 2008](#)).

This channelling of resources to marginal seats not only raised concerns that Conservative candidates were gaining an unfair advantage through the exploitation of loopholes in the legislation, but also that individual candidates were being supported via specific wealthy individuals and business interests. From July 2004 to June 2005, a combined total of £3.3 million was donated to local Conservative parties - double the sum given to all Constituency Labour Parties and four times the amount received in donations by the Liberal Democrats' sub-national parties ([Wilks-Heeg, 2008](#)). Of the £3.3 million given to Conservative Associations in the year prior to the 2005 general election, £1.3 million (39 per cent) originated from three donors. Bearwood Corporate Services, owned and controlled by Ashcroft, distributed a total of £806,200 between 73 local parties; the Midlands Industrial Council donated a sum of £376,040 to 76 local parties; and a further 5 local parties shared £95,907 between them, courtesy of Lord Leonard Steinberg ([Wilks-Heeg, 2008](#)).

The role of both the Midlands Industrial Council (MIC) and Bearwood Corporate Services (BCS) in providing financial support to individual candidates became the subject of particular controversy. With regard to MIC, questions were raised about both the sources of its funds and the purpose of the financial support which it provided to a company called Constituency Campaigning Services (CCS), from which local Conservative parties in marginal seats purchased services such as leaflet distribution and telephone canvassing. Although the MIC revealed the names of 22 of its members in October 2006, its status as an unincorporated association effectively meant that 'no-one knows who is giving the money to MIC or how much they are giving, unless the Council itself agrees voluntarily to be transparent' ([Ewing, 2008](#)). The issue with MIC's funding of CCS concerned a quite separate issue of whether the MIC was, in effect, subsidising the company's activities so that its services could be purchased by local parties for below-commercial rates (thereby enabling additional campaign services to be bought without exceeding the expenditure limit). However, following an investigation by the Electoral Commission, it was concluded that there had been no breach of electoral law.

The Electoral Commission also undertook a lengthy investigation of Bearwood Corporate Services (BCS), following complaints that it was not a permissible donor. The Commission found no evidence that the law had been breached, noting that, as a company registered in the UK, BCS was a fully permissible donor. However, the Commission also highlighted its own limited powers of investigation, as well as its lack of any power to compel Conservative Party staff and officials to attend interviews, despite several requests for them to do so. In addition, the Commission's case summary noted that, while there is no requirement in law that the funds a company donates to a political party must be generated from its own trading, the source of the money donated by BCS appeared to originate from overseas:

'BCS' accounts indicate that the funds used for BCS' donations were not generated wholly from BCS' own trading activities. Funds passed on three occasions to BCS by way of share purchases. On two occasions, funds passed from a Belizean based company, Stargate Holdings Limited (Stargate), to a UK based company known as Astraporta UK (AUK). Funds then passed through share purchase from Astraporta UK to Bearwood Holdings Limited, another UK based company. The final step was for the funds to be passed through share purchase from Bearwood Holdings Limited (BHL) to BCS. There was subsequently a third purchase of shares in BCS - this time directly by Stargate. Stargate is registered in Belize and the Commission was unable to obtain any meaningful information about the sources of its funding' ([Electoral Commission, 2010b, p. 4](#)).

In view of these, and other, developments, it can legitimately be argued that the PPERA 2000 'is riddled with loopholes, which undermine its underlying purposes' ([Ewing, 2008](#)). Attempts have been made in recent years to tackle some of these shortcomings. The Political Parties and Elections Act 2009 introduced pre-candidacy limits on spending which are applied on a 'sliding-scale' providing parliament is

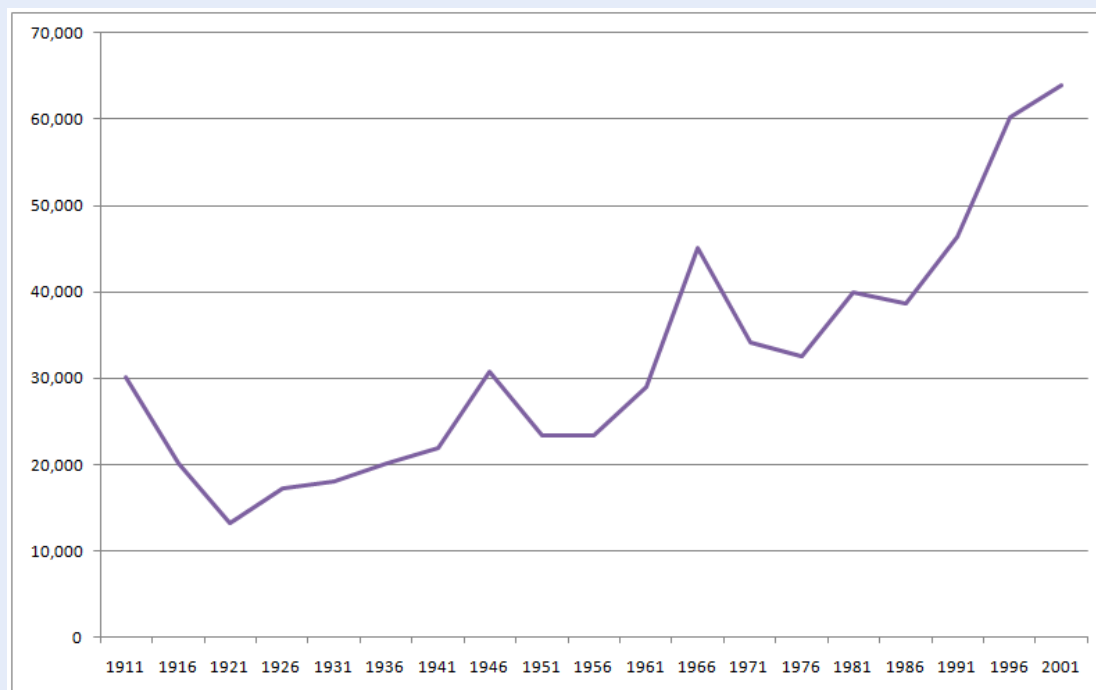
not dissolved before 56 months. Under the scenario of parliament running for a full five-year term, this means that a candidate would be allowed to spend a maximum of around £30,000 in the period before the official campaign. These rules were first applied at the 2010 general election and revealed that just under one quarter of all election spending was committed by candidates in advance of the official campaign (see Figure 2.6a). In addition, the Political Parties, Elections and Referendums (Civil Sanctions) Order, passed by parliament in December 2010, provides the Electoral Commission with additional powers to investigate and to enforce compliance. However, it remains to be seen how successful these measures will prove to be without progress in introducing wider reforms to party political finance.

Financing elected representatives

There is a long tradition of elected representatives in the UK drawing income from activities 'external' to their work in parliament or, in the case of Labour until 1995, from trade union sponsorship. In part, this tradition reflects the belated acceptance of a need to pay MPs a full salary. While proposals to pay MPs date back to 1780, parliament voted against introducing payments on at least six occasions in the nineteenth century ([House of Commons Information Office, 2009](#)). Indeed, MPs did not receive any payment for their role as parliamentarians until allowances of £400 per annum were introduced by David Lloyd George in 1911. As Doig (1984, p. 201) notes, this provision was advocated by Lloyd George not as remuneration or a salary but as 'a means of opening the door to those who could offer great and honourable public service but had not the means to do so'.

While allowances paid to MPs did gradually become defined as a salary, their value was only raised sporadically over the next 50 years, causing their real financial worth to decline. Only in 1946, when pay was raised from £600 to £1,000, was the real value of these payments restored to their 1911 level. Thereafter, as Figure 2.6b shows, MPs' salaries fell again in real terms during the 1950s. By the 1960s, it was clear that some MPs were suffering genuine financial hardship. Yet, the view that MPs should not expect their income to come solely from a parliamentary salary persisted. In 1961, Harold Macmillan was to dismiss complaints about poor pay and facilities by suggesting 'an MP was free to conduct his personal affairs himself, subject to the accepted rules and conventions' (Doig, 1984, p. 201). Such a state of affairs was, moreover, seen to be of benefit to parliament itself. According to Whig conceptions of representation, which remained dominant for most of the twentieth century, 'MPs' professional and business interests gave them experience of the wider world, which could then be better represented at Westminster' ([Allen, 2011, p. 215](#)).

Figure 2.6b: MPs' salaries, 1911-2001, measured in 2009 prices



Source: Compiled from [House of Commons Information Office \(2009, p. 12\)](#) and converted to 2009 prices, based on the Retail Price Index, using <http://www.measuringworth.com/>.

In recognition of the failure of MPs' pay to keep pace even with the level at which allowances had been introduced in 1911, the recommendations of the independent Lawrence Inquiry for an increase from £1,750 to £3,250 were accepted by government and passed

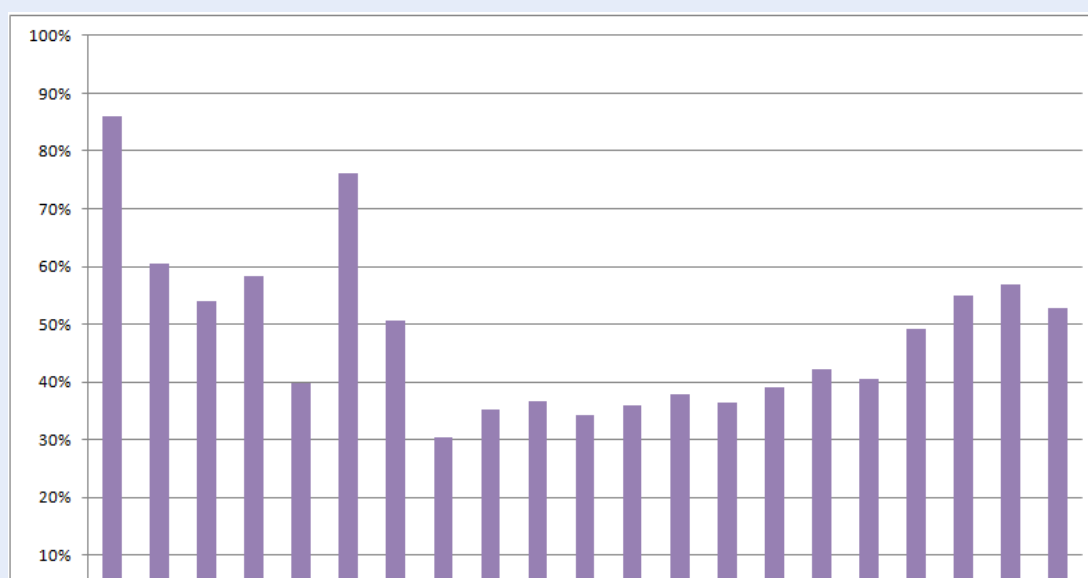
by parliament in 1964 (Doig, 1984; [House of Commons Information Office, 2009](#)). However, the Lawrence Inquiry also reiterated the long-standing view that parliament benefitted from the fact that many MPs earned income from other sources and that the increase in pay was primarily to ensure that members without access to such income could continue to serve in the role. Thereafter, the issue of how to determine MPs' pay remained a controversial issue. The real value of MPs' salaries began to fall again from the mid-1960s and while recommendations for MPs' pay were to be made by the independent Top Salaries Review Body (TSRB) from 1971 onwards, its recommendations for significant increases in pay were generally rejected by government. A similar pattern arose with the TSRB's successor, the Review Body on Senior Salaries (RSSS) from 1993 onwards, although agreement was eventually reached in 1996 to set MPs' pay in relation to senior civil service pay bands ([House of Commons Information Office, 2009](#)). The result, as Figure 2.6b shows, has been a sustained increase in the real value of MPs' pay since the mid-1970s, which accelerated sharply from the mid-1990s.

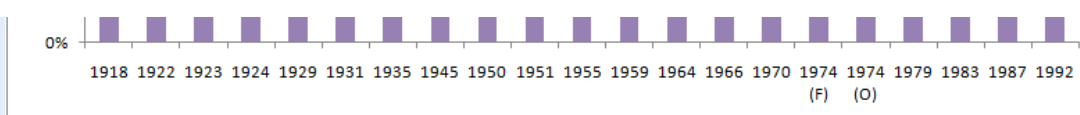
It is important to note that the period since the mid-1970s has also witnessed significant changes in attitudes towards MPs earning income from outside employment or interests, and in the nature - and volume - of work undertaken by MPs. As noted in the introduction to this section, a register of members' interests was first established in 1974, in response to the revelations associated with the Poulson affair (Doig, 1984). Over the same period, the workload of the typical MP grew substantially, notably as a result of the growing importance of select committees, established in 1979, as well as the continued growth in the volume of casework brought to them by constituents.

While the new register of members' interests required only that the sources of outside income were declared, and not the amounts earned, it was immediately apparent that MPs had substantial outside interests. The 1976 register revealed that 29 per cent of MPs held company directorships and 21 per cent were employed in another capacity (Doig, 1984). In a landmark book, Hollingsworth (1991) found that a total of 384 MPs had at least one form of commercial interest, holding 522 directorships and 452 consultancies between them. Yet, even at this point, concern that such connections might impinge on the integrity of MPs was still readily dismissed, reflecting the historical view that it was a 'necessary or even desirable part of institutional duties for MPs to represent business, labour or other interests in Parliament, and [that] it was equally proper for them to have financial links, where appropriate, to such interests' ([Allen, 2011, p. 216](#)). Indeed, it was not until 1994 that this perspective was seriously challenged, as a result of the 'cash for questions' affair, in which Conservative MPs were accused of accepting payments and gifts to table questions in parliament. As Allen ([2011, p. 216](#)) notes, this controversy suggested that 'now, an unknown number of MPs were pursuing financial relationships with various interests simply to advance their own wealth'.

In the wake of the 'cash for questions' affair, the [Committee on Standards in Public Life \(1995, p. 3\)](#) noted that 'It reduces the authority of Parliament if MPs sell their services to firms engaged in lobbying on behalf of clients. This should be banned'. The committee also raised concerns about trade union sponsorship of individual Labour MPs, prompting the Labour Party to consent to ceasing the practice from 1995 onwards (despite, as Figure 2.6c shows, its seemingly growing importance to Labour MPs at that time). However, the committee again reiterated the argument that MPs should not be discouraged from pursuing paid outside interests, suggesting 'The House of Commons would be less effective if all MPs were full-time professional politicians, and MPs should not be prevented from having outside employment' ([Committee on Standards in Public Life, 1995, p. 3](#)). The committee proposed the introduction of a new code of conduct for MPs, as well as a new office of the Parliamentary Commissioner for Standards and the replacement of the Members' Interests Committee with a new Standards and Privileges Committee ([Allen, 2011](#)). The committee also recommended that the register of members' interests should include details of how much income MPs received via their external interests, and that it should be monitored more closely.

Figure 2.6c: Percentage of Labour MPs with trade union sponsorship, 1918-1992





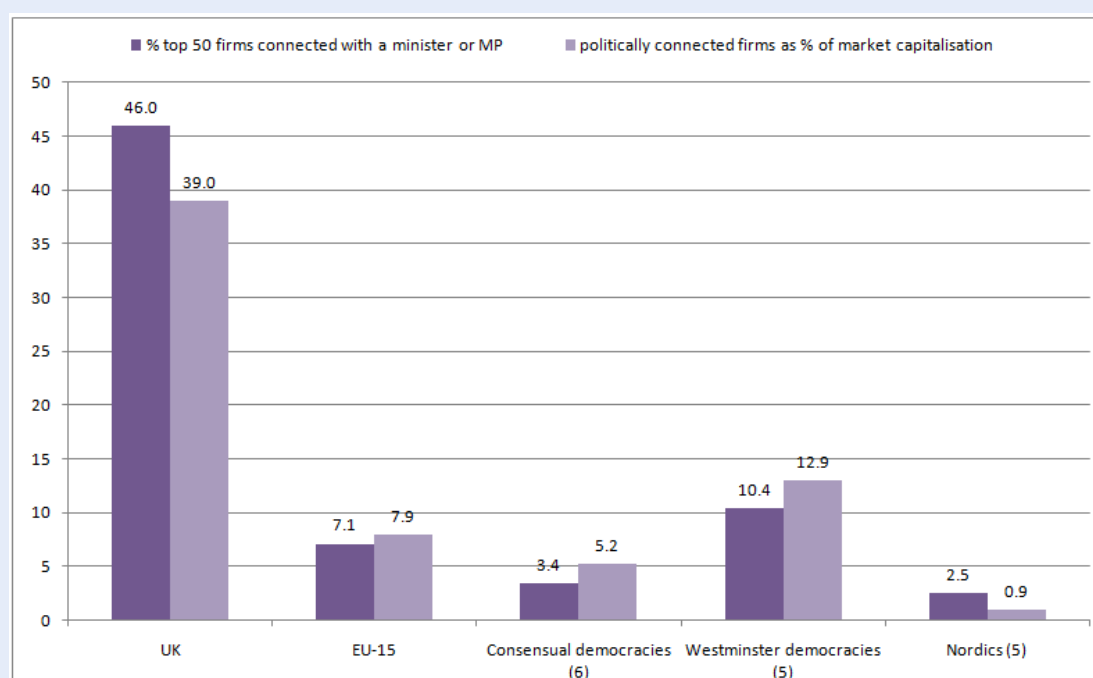
Note: No Labour MPs have been directly sponsored by a trade union since 1997.

Source: Calculated from Butler and Butler (2000, p. 162).

Under the new system, it has remained commonplace for MPs to earn money from other sources, despite the very clear rise in the value of their salaries and the requirements placed upon them to declare outside earnings and interests. It emerged in July 2008 that a confidential report, written by the deputy leader of the Commons, Helen Goodman, had found that second jobs were held by 66 per cent of Conservative MPs, 37 per cent of Liberal Democrats and 19 per cent of Labour MPs ([Independent, 2008](#)). It should be noted that these stark contrasts between the three parties will, in part, reflect the fact that Labour were in government at this time, with more than 100 of their MPs engaged in additional (paid) roles as members of the executive. Nonetheless, the tendency for Conservative MPs to be disproportionately likely to retain paid outside interests is very clear. In their analysis of the register of members' interests at three points in time, [Eggers and Hainmueller \(2009\)](#) found that about half of Conservative MPs in 1975 and 1990 also held company directorships and about half were engaged as consultants. While fewer than 10 per cent of Labour MPs were engaged in such roles, between one-third and one-half were in receipt of trade union sponsorship (see Figure 2.6c for long-run trends in union sponsorship of Labour MPs from 1918-1992). The number of Labour MPs with trade union sponsorship then fell to zero, owing to the practice being discontinued after 1995, while the proportion holding directorships or consultancies remained very low. By contrast, around 30 per cent of Conservative MPs were listed as company directors in 2007, and some 40 per cent were engaged as paid consultants.

While the number of British MPs currently serving on corporate boards is by no means unusual by historical standards, there are clear grounds to suggest that it is out of line with international practice. In her analysis of connections between parliamentarians and corporations internationally, [Faccio \(2006\)](#) found that 46 per cent of the top 50 publicly traded firms had a British MP as a director or shareholder - the highest for all 47 countries studied (the next highest-ranked OECD country was Italy with 16 per cent). Faccio also found that the aggregate 'corporate value' of firms with such connections to an MP accounted for 39 per cent of total market capitalisation. In this instance, the UK ranked third out of the 47 countries studied, behind Russia (87 per cent) and Thailand (42 per cent), and again significantly ahead of the next ranked OECD nation, Ireland (23 per cent). Figure 2.6d, which is derived from Faccio's data, shows that the UK's corporate-parliamentary connections are of an order which is exceptionally rare among established democracies - running at four times the average for the Westminster democracies, six times the average for Western Europe (EU-15) and over ten times the average for the Nordic countries.

Figure 2.6d: Corporate-parliamentary connections, UK in comparative perspective



Source: Derived from [Faccio \(2006\)](#).

A House of Commons resolution dating from 1695 defines offers of money or other benefits to persuade an MP to promote an issue in parliament as 'a high crime and misdemeanour' (Barnett, 2004, p. 475). Despite this principle being reiterated on numerous occasions since then, the patterns of financial interest highlighted above have given rise to consistent concerns about possible conflicts of interest associated with the actions of individual MPs (Doig, 1984; Hollingsworth, 1991; Rowbottom, 2010). In his analysis of the 169 reports published by the Standards and Privileges Committee from 1995-2010, [Allen \(2011\)](#) concludes that there were 23 serious cases of MPs failing to register an interest, 10 serious cases of MPs failing to declare a relevant interest and five serious cases of MPs engaging in paid advocacy.

Inevitably, there is also a steady stream of accusations made in the media which never reach the stage of being formally investigated by parliament. For instance, the Bureau of Investigative Journalism ([2011a](#), [2011b](#)) has highlighted a number of specific instances where MPs appeared to be 'vulnerable to accusations of conflicts of interest' despite abiding by parliamentary rules. Arising from its analysis of both the register of members' interests and the nature of contributions to parliamentary proceedings made by individual MPs, the [Bureau of Investigative Journalism \(2011b\)](#) published details of twelve MPs who it suggested had 'been found to have taken part in committees, contributed to debates or asked question in parliament that are closely related to their personal financial interests'. Given the sheer number of business and professional interests which British MPs maintain, it can be expected that such claims will continue to be heard on a regular basis.

2.6.4 Business influence on public policy

How far is the influence of powerful corporations and business interests over public policy kept in check, and how free are they from involvement in corruption, including overseas?

It has long been recognised that powerful corporations and business interests limit the practical reach of democratic decision-making (Lindblom, 1977). Yet, in more recent decades, there has been growing concern expressed about the potential threat to democracy arising from growing corporate power (Beetham, 2005, [2011](#)). Clearly, where corporate interests are engaged in corrupt behaviour they represent a challenge to the rule of law. Yet, most modes of business influence over political decision-making in the UK are entirely legal, generally regarded as legitimate, and often directly encouraged by elected politicians. But, as these forms of corporate power grow, they begin to undermine the two core democratic principles of popular control and political equality (Beetham, 2005).

Inevitably, the extent of corporate influence, and the extent to which it undermines democracy, is difficult to measure, not least because it involves, in part, activities that are covert and forms of power which are indirect and systemic. However, a recent and dramatic illustration of far-reaching corporate influence, including likely corruption, was provided by the phone hacking scandal (also discussed in Sections [2.5.2](#) and [3.1](#)). Given the wider evidence of how corporate power operates (which is discussed in the remainder of this section) it seems reasonable to assume that the News International scandal was not an entirely isolated case, and that it is probably indicative of broader - if often concealed - democratic problems.

The phone-hacking scandal, which finally broke in mid-2011 following years of allegations, provided ample evidence that employees of News International - and other media groups - had habitually used illegal and unethical methods to obtain stories; and of corrupt relations between the media and the police, going to the highest level within both groups (for the policing dimensions see [Home Affairs Select Committee, 2011](#)). Furthermore, there were grounds for concluding that News International had for some time used its powerful position within the media and its ability to cause problems for governments, parties and individual politicians in order to influence official decision-making. The desire to appease News International seems to have played a part in major strategic policy decisions made by successive UK governments. To pick one important example, the Eurosceptic orientation of the media group encouraged hesitancy on the part of New Labour about the possibility of joining the European single currency. (For evidence of the importance of News International, see Campbell, 2008). While News International publications were open about their position over certain policy issues, the precise manner of the organisation's influence was not made public.

Policy influence

A recent Democratic Audit study by David Beetham argues that corporate and financial interests have, since the 1980s, inserted themselves increasingly into government and its decision-making processes, over which they now exercise substantial influence ([Beetham, 2011](#)). As well as exercising indirect power on governments, Beetham identifies two broad categories of direct business influence over public policy, as follows:

1. *The buying of influence*: via donations to political parties and the funding of think tanks, through lobbying activities, the provision of corporate hospitality and financial support for individual parliamentarians and parliamentary groups.
2. *The operation of a variety of revolving doors*: through which individuals move, in both directions, between senior positions in government and senior roles in big business, and government-corporate ties are strengthened via membership of regulatory, advisory and partnership bodies.

The scope for corporate interests to buy political influence through donations to political parties and the financing of election campaigns is highlighted in detail elsewhere in the Audit (see Sections [2.2.4](#) and [2.6.3](#)). However, it is vital to underline that influence can also be bought through others means, such as the funding of think tanks and lobbying organisations. Financing think tanks, for instance, offers a potential means of influencing the policy agenda via organisations which purport to be impartial and non-partisan, but tend, in reality, to have clear ideological leanings and close links with a particular political party. Donating money to a think tank can also provide a means of bypassing the legal regulations placed on direct financial contributions to political parties, particularly those relating to disclosure, thus preserving the anonymity of the donor.

Lobbying organisations, meanwhile, have become increasingly professionalised and sophisticated, offering not only access to decision-makers, but also design and implementation of public relations strategies aimed to secure particular policy outcomes. As a consequence, lobbying has become an increasingly costly activity, further advantaging well-resourced business interests over other groups (for further detail on attempts to regulate lobbying, see Section [2.3.3](#)). The imbalance of access to ministers enjoyed by different types of organised interests was made clear by data analysis published by the Guardian in October 2011 on meetings between coalition ministers and individuals and groups outside government ([Guardian, 2011](#)). These data showed that that between May 2010 and March 2011 there had been 1,537 meetings between ministers and representatives of corporate interests; 1,409 with trade groups, think-tanks and other interest groups; 833 with charities; and 130 with trades unions. These data do not include 'private' meetings, which it can be assumed showed at least as great a bias.

In its more narrow sense, the 'revolving door' is understood as the interchange of personnel, as salaried employees or consultants, between public and private sectors. The 'revolving out' of government ministers and senior civil servants to the private sector is perhaps the one area of government-corporate linkage for which there is sufficient evidence available to assess its scale and significance. The nature of this evidence, which exists largely because of the regulations governing such movements of personnel, in particular the Business Appointment Rules, is considered in more detail below. However, it is also important to note two further means through which corporate influence can be directed as a result of the interchange between governmental and business interests. These are, first, through membership of advisory bodies, whereby leading private sector representatives are recruited to official taskforces and committees. Illustrating the kind of tilt towards particular interests that can take place, [Beetham \(2011, p.17\)](#) has shown that '[a]ll three reviews following the 2007 [financial] crash [...] into UK banking governance, British offshore financial centres and the UK international financial services respectively, were chaired by bankers, the last with membership drawn entirely from the City of London'. Second, business interests frequently form joint partnerships with government. These partnerships may be designed either to obtain private sector access to public sector business; to help obtain access to foreign markets for UK businesses; or to promote UK businesses abroad. Such entities seem to blur the line between public and private sectors, to the advantage of the latter.

The revolving door from government to business

There are democratic and other grounds (for instance, efficiency) for arguing that there should be an interchange of personnel between government and outside organisations, including in the private sector. However, such practices, which have grown substantially in recent decades, present particular challenges. Transparency International UK has identified five different kinds of conflict of interest that can arise in connection with the 'revolving door' ([David-Barrett, 2011](#)), set out in Case Study 2.6e.

Case Study 2.6e: The 'revolving door' – five types of conflict of interest

Abuse of office, involving the use of an official position to favour a particular private sector organisation;

Undue influence, whereby an individual uses connections established when they were once in an official position to achieve desired outcomes for their private sector employer;

Profiteering, when an individual uses knowledge acquired when in an official post for personal financial gain;

Switching sides, that is an individual leaving the public sector to take up a private sector role which involves them opposing a

government policy they previously represented on a given issue; and

Regulatory capture, where individuals charged with regulating a particular sector tend to be overly sympathetic towards it because they are recruited from it.

Source: [David-Barrett \(2011\)](#).

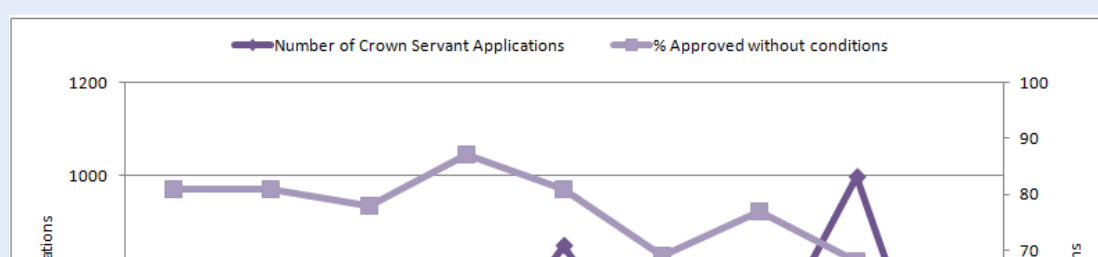
The civil service management code outlines a set of 'rules on the acceptance of outside appointments by Crown servants', the purpose of which is twofold. First, the rules are intended to prevent suspicions of serving officers being influenced in their advice or decisions because they aim or expect to be employed in future by a specific company or organisation. Second, the rules are intended to prevent the scenario that individual companies could employ former civil servants whose specific knowledge about government policy would provide the new employer with unfair or improper advantages over their competitors ([Cabinet Office, 2011](#)). These rules apply to all senior officials for the first two years after they leave crown employment, although decisions can be overridden by a minister on national interest grounds (see Case Study 2.6f). The application of the rules is overseen by the Advisory Committee on Business Appointments (ACOBA), first set up in 1975 and appointed by the prime minister. ACOBA comprises individuals who are appointed because of their experience of the intersection between Whitehall and the private sector.

With regard to former politicians, meanwhile, a system for monitoring appointments for ex-ministers was set up following a recommendation in the first Committee on Standards in Public Life report in 1995. Consequently, former ministers were also brought within the remit of ACOBA (though, notably, while ex-ministers are covered by the Advisory Committee, it does not extend to cover the taking up of posts by all ex-MPs). The general principles applying to ministers are contained in the Guidelines on the acceptance of appointments for employment outside government by former ministers of the Crown ([Advisory Committee on Business Appointments, undated](#)). These guidelines stipulate the same possible concerns as apply with the appointment of senior civil servants to outside appointments - namely that a serving minister might be influenced by the hope or expectation of future employment and that a firm or organisation may be able to obtain and make improper use of official information by virtue of employing a former minister.

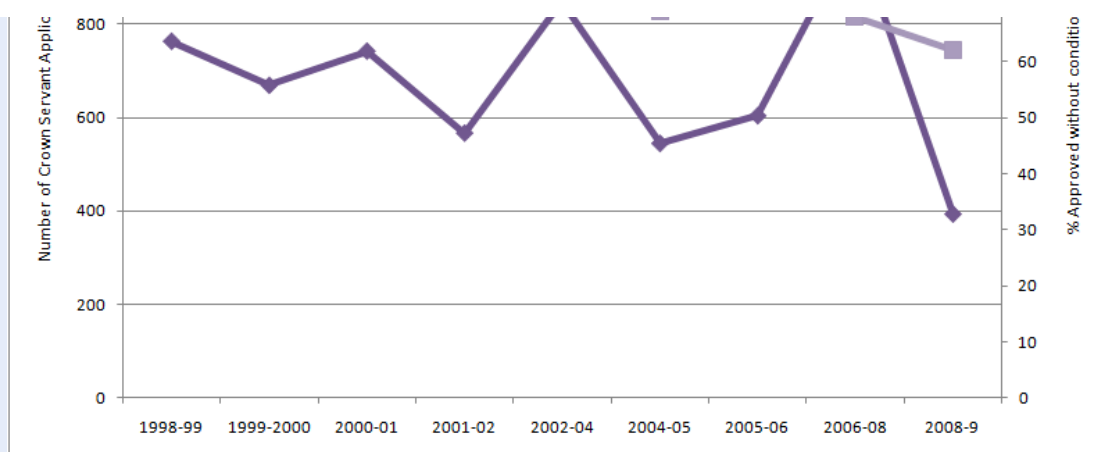
In instances where an appointment may mean that former officials - and in particular, ministers - will be lobbying their previous colleagues, ACOBA can recommend that individuals refrain from lobbying activity for 12 months (a minimum period of two years now applies to ministers). There are some other important distinctions between how the rules and procedures operate with respect to former civil servants and former ministers although, in both cases, the powers of ACOBA are ultimately limited. Senior crown servants are obliged by their contracts of employment to obtain the approval of ACOBA before taking up an outside appointment. Even officials below the highest level must seek permission either from the head of the home civil service/cabinet secretary, or their department. The committee will either accept the request outright; seek to impose conditions or a waiting period; or describe it as completely unsuitable. In practice, officials are not forced to accept the decisions of ACOBA, which they generally follow voluntarily ([David-Barrett, 2011](#)). In addition, while ministers are required by the ministerial code to seek and abide by the advice of ACOBA, the code is non-statutory and the [Advisory Committee \(2009, p. 9\)](#) has noted that it: 'has no remit to police compliance with the ministerial code or the observance of the advice we give to individuals. Nor could we carry out such a function'.

As Figure 2.6e shows, the number of applications handled by ACOBA annually tends to be fairly considerable. Typically somewhere in the range of 400-800 former civil servants will seek permission to take up outside appointments in any given year. Figure 2.6e also reveals that there has been a rise in the proportion of cases in which crown servants have conditions imposed on them by ACOBA. Whereas conditions were imposed with regard to just over 20 per cent of applications in 1998-99, the figure had risen to around 40 per cent of applications by 2008-09. This trend may be indicative of rules being applied more strictly, or of more problematic appointments being taken up, or some combination of the two. In some cases, a waiting period or conditions are imposed that are so stringent as to mean that the individual involved does not take up the post at all - but the data does not record non-take-up, so how often it happens cannot be determined.

Figure 2.6e: Crown servants seeking approval for outside appointments, 1998-99 to 2008-09



Democratic Audit



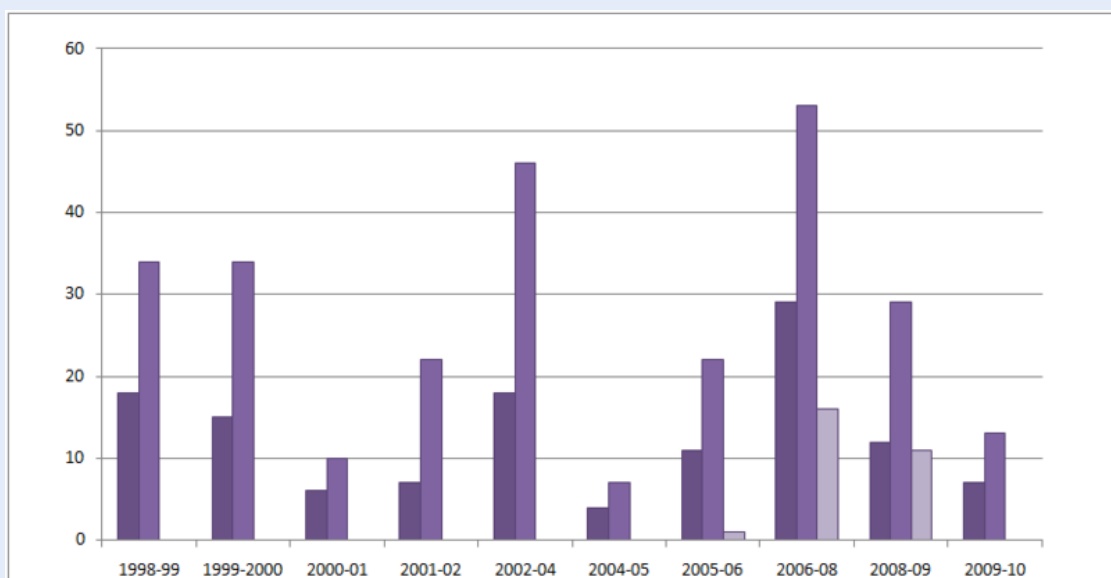
Source: [Reports by Advisory Committee on Business Appointments \(various years\)](#).

The information contained in ACOBA's reports suggests that around one-third of movement out of the civil service is from defence-related work into the defence sector. In 2008-09, of 394 applications for outside employment, 39 were classed as Defence (Civilian); 91 as Defence (HM Forces); and 11 as Defence (Science and Technology Laboratory). Taking this tendency into account, ACOBA has noted particular concerns about suspicion of impropriety in relation to the close relationships between civil servants and defence contractors, where there may be particular expectations 'of post-retirement jobs in an industry where applicants have had close contact with their prospective employers' ([Advisory Committee for Business Appointments, 2004, p.10](#)).

These concerns are not just theoretical. A number of specific cases relating to the defence industry have been the subject of particular controversy. Sir Kevin Tebbit, formerly permanent secretary at the Ministry of Defence, joined the board of armaments manufacturer Finmeccanica. While Tebbit was in his earlier role in 2005, a daughter company of Finmeccanica had been awarded a contract by the ministry. Tebbit also joined the board of Smith Industries a month after it received a ministry contract in May 2006 (although the award was made after Tebbit, who departed in November 2005, left the ministry).

The number of former ministers seeking advice from ACOBA is smaller than that for former civil servants and, owing to the nature of the parliamentary cycle, there is greater annual fluctuation in the volume of applications, as Figure 2.6f shows. Figure 2.6f also points to a tendency for some ministers since 2005-06 not to take up appointments having received advice on them, a development perhaps influenced by the fate of David Blunkett, who was forced to resign from a cabinet position in 2005 because of an earlier failure to seek ACOBA's advice during a period outside of government (see below).

Figure 2.6f: Former ministers seeking advice on appointments from Advisory Committee on Business Appointments, 1998-99 to 2009-10.



■ Number of former ministers seeking advice ■ Appointments taken up ■ Appointments not taken up

Source: [Advisory Committee on Business Appointments \(1999; 2000; 2001; 2002; 2004; 2005; 2006; 2008; 2009; 2010\)](#).

The change of government of May 2010 brought with it a large set of new appointments. In its most recent account of 107 appointments for 52 former ministers since 1 April 2010, ACOBA has noted that seven positions were taken up by six different ex-ministers without first notifying the committee ([Advisory Committee on Business Appointment, 2011](#)). In four of these instances it expressed 'concern' about this failure to notify, although it would have cleared them all, in some cases with conditions. The ex-minister employed in the most different jobs (eight in total) was Lord Davies of Abersoch, formerly minister for trade promotion and investment at the Department for Business, Innovation and Skills, which perhaps suggests that holding a government job with a clear commercial orientation could be of most use to future employment prospects. Certainly, concerns about ex-ministers taking up lucrative roles in industries with which they had developed a close relationship in government have been shown to be more than just theoretical, as two recent cases illustrate:

- From 2003 onwards, the former secretary of state for health, Alan Milburn, took on a number of posts with private health organisations as well as with an equity firm, Bridgepoint Capital, which won a number of contracts with the National Health Service.
- In January 2008, Stephen Ladyman, a former minister of state at the department of transport, was appointed an adviser to ITIS Holdings, a firm which provides travel and transport information. It had held a contract with the government during the time Ladyman was at the department. Ladyman was told by the Advisory Committee on Business Appointments that he could not lobby government for 12 months after leaving office; yet he corresponded with the Highways Agency before this period had lapsed ([David-Barrett, 2011](#)).

In light of cases such as these, a number of significant concerns have been expressed about the operation of the current system and about the role of ACOBA, in particular. First, the work of ACOBA is predicated on the assumption that, in the words of the Civil Service Management Code: 'It is in the public interest' that those with ministerial or public administration experience should be able to 'move into business or other bodies, and that such movement should not be frustrated by unjustified public concern over a particular appointment', while 'there should be no cause for any suspicion of impropriety' ([Cabinet Office, 2011](#)). This wording is replicated in the guidance for ministers. The idea that such interchange is 'in the public interest' is debatable; and it would arguably be better were the rules neutral over this issue and focused purely on ensuring propriety.

Second, given this framing of their task, it could be argued that the requirement for members of ACOBA to have direct experience of the interface between government and business should be regarded as a cause for concern. It is equally possible, however, that the membership of ACOBA represents 'a worst of both worlds' scenario. In its report, *Lobbying: Access and Influence in Whitehall*, the [Public Administration Select Committee \(2008\)](#) noted that all of ACOBA's members had been in place for a period of 5-10 years and that collectively they could boast only limited recent experience in government or business between them. The report went on to describe the operation of the committee in words which appear to portray it as little more than an extension of an 'Old Boy's' network:

'They are unpaid, and no doubt as a result, are drawn exclusively from the great and the good. It is noticeable, though by no means their fault, that they are all white, male and of a certain age. They meet extremely rarely. Their decisions are generally agreed by correspondence' ([Public Administration Select Committee, 2008, p. 68](#)).

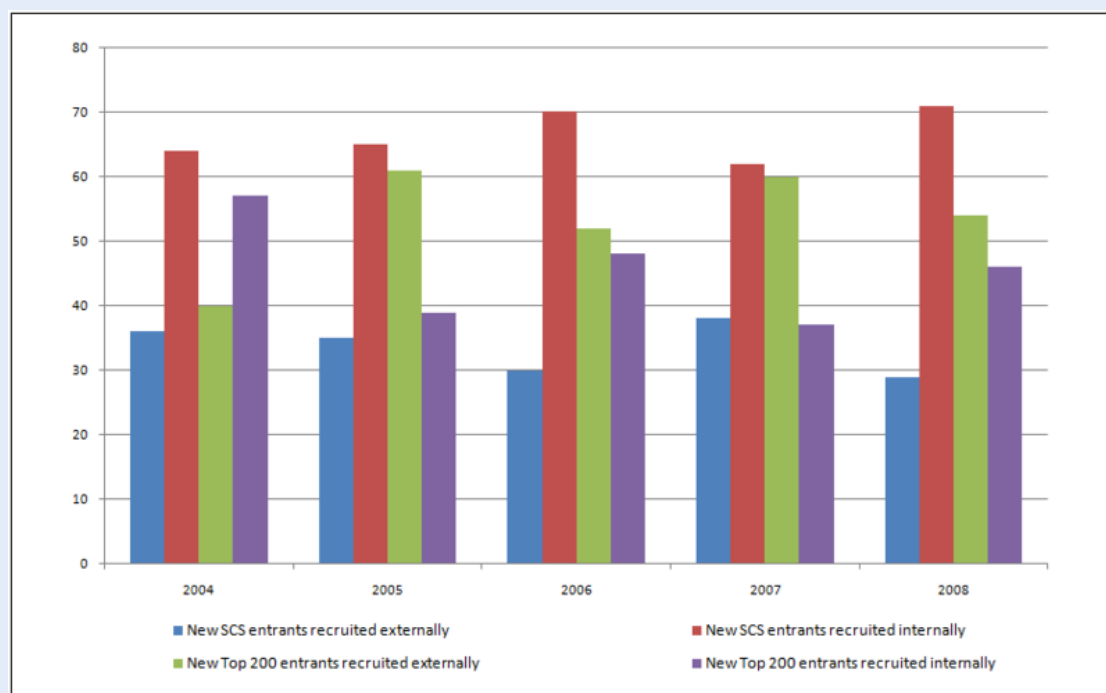
Third, in its report for 2008-9 ([Advisory Committee on Business Appointments, 2009, p. 10](#)), ACOBA itself complained that the rules it applied were now ten years old; and that the government had failed to fulfill the pledge it made in 2007 to update them. ACOBA has subsequently been engaged in an ongoing redrafting process for the rules. The committee has noted that former ministers who subsequently take on roles such as special representatives, envoys, 'Tsars' or other advisory posts are not subject to the Rules when they leave office ([Advisory Committee on Business Appointments, 2010, p. 8](#)).

Fourth, the provisions in relation to former civil servants and ministers acting as future lobbyists are highly problematic. Aside from the fact that there is no real mechanism to ensure that ACOBA's recommendations with regard to former officials refraining from lobbying are enforced, the committee has itself highlighted that 'there is no simple definition of the term lobbying'. While the government has now agreed to define lobbying in a new set of rules ([Advisory Committee on Business Appointments, 2009, p.9](#)), the idea that it becomes acceptable, after an arbitrary period, to engage in lobbying activities that were not appropriate up to this point is clearly questionable.

Fifth, it is apparent that 'revolving out' by senior civil servants often follows the act of the same individual 'revolving in' some years previously. A significant number of the officials leaving the civil service for outside employment were recruited from 'outside' in the first

place. As Figure 2.6g illustrates, the extent of outside recruitment to the senior civil service (which numbers roughly a little over 4,000 in total) is greatest at the top level.

Figure 2.6g: New entrants to the senior civil service and the 'Top 200' of the senior civil service – % of external and internal recruits



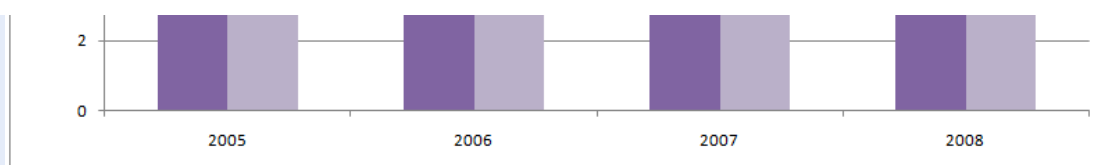
Source: [Public Administration Select Committee \(2010\)](#).

As Figure 2.6h shows, the turnover rate for these outside recruits has been consistently higher than that for internal recruits over a number of years. Of external recruits to the senior civil service in the year to April 2004, 49 per cent were still in place by April 2008. The percentage retention for internal recruits over the same period was 68 percent. Furthermore, the most common reason for outside recruits leaving was resignation; while for internal recruits, it was retirement ([Public Administration Select Committee, 2010, pp. 16-17](#)). The long-term rise in the number of special advisers, who are by definition only passing through the civil service (except in the limited number of cases where they subsequently secure permanent positions) is noted in Section [2.3.2](#).

Figure 2.6h: Turnover rate (%) for external and internal recruits to the senior civil service



Democratic Audit



Source: [Public Administration Select Committee \(2010\)](#).

Sixth, ministers have in the past sometimes failed even to seek the advice of the Advisory Committee. For instance, in November 2005 it emerged that the then-work and pensions secretary, David Blunkett, had not obtained the views of ABOBA when - during a spell outside of cabinet, before which he had been home secretary - he had taken up a directorship at DNA Bioscience (in which he also owned shares). His ultimate resignation came about seemingly not because of a strict enforcement of the rules by the prime minister, but as a consequence of political pressure. The next edition of the ministerial code, issued under Gordon Brown in 2007, was reworded to make it more explicit that ministers needed to seek advice (and were expected to follow it).

In short, there is clear evidence to suggest that the mechanisms for regulation of 'revolving out' are not working in such a way as to secure public confidence.

Corruption

The Bribery Act 2010 came into force in July 2011, largely replacing a piecemeal and anachronistic legal framework for the prevention of corruption (for further discussion of the act, see Section [2.6.2](#)). Prior to the act, the complexity of the law made an assessment of the extent of corruption in the UK difficult. Between 2003 and 2007, for instance, 33 guilty verdicts were delivered under the Prevention of Corruption Act 1906 and four under the Public Bodies Corrupt Practices Act 1889. However, there are various other criminal offences that can cover corruption - including fraud, false accounting, perverting the course of justice and misconduct in public office. Civil cases can also involve corruption.

The Bribery Act 2010 has brought a welcome degree of clarity to these complex legal arrangements. However, the official guidance issued on the law in March 2010 was criticised as having diluted the Act through the creation of various loopholes to enable companies to avoid being covered by it ([Hickey and Macaulay, 2011](#)). As well as the content, the tone of the notes and supporting documentation was worrying - actually going as far as to provide suggestions on how to avoid the scope of the act. For instance, in its 'Quick start guide' to the Bribery Act the government went to considerable lengths to explain that 'Hospitality is not prohibited by the Act', and went on to affirm that:

'The Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure [...] as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act. So you can continue to provide tickets to sporting events, take clients to dinner, offer gifts to clients as a reflection of your good relations, or pay for reasonable travel expenses in order to demonstrate your goods or services to clients if that is reasonable and proportionate for your business' ([Ministry of Justice, 2011, p. 7](#)).

Away from the legislative position, another arguable problem is that there is a lack of institutional focus on tackling corruption. Rather than one single anti-corruption agency, multifarious bodies have responsibility in this area ([Hickey and Macaulay, 2011](#)). There is also evidence that the growing threat from organised crime could produce an increase in corruption in the UK ([Krishnan and Barrington, 2011](#)).

A particular problem is the involvement of UK firms in international corruption, a practice which can be argued to result in the UK making a negative impact on democracy beyond its borders. In opinion research recently conducted by [KPMG \(2011, p. 8\)](#), corporate executives were asked whether 'anti-bribery and corruption regulations ignore the fact that, in many countries, bribery is simply the way business is done'. Over half (54 per cent) of respondents indicated that they either agreed or strongly agreed with this statement, while only 24 per cent indicated either disagreement or strong disagreement. In addition, 73 per cent of those surveyed agreed that there are 'places in the world where business cannot be done without engaging in corruption', with 27 per cent disagreeing ([KPMG, 2011, p. 18](#)).

These data could be construed as suggesting that the involvement of UK business in corruption overseas is endemic, or at least accepted as inevitable in some areas; and that the Bribery Act in itself will be insufficient to prevent it. Furthermore, the 'Al-Yamamah' case, set out in Case Study 2.6f, involved an official move to shield a UK business from investigation. This affair also provides evidence of inappropriate influence wielded by powerful business interests upon UK government.

Case Study 2.6f: The BAE Systems/Al-Yamamah case

BAE Systems has been associated with various allegations of impropriety. In 2010, the company pleaded guilty to failing to keep reasonably accurate accounting records in relation to its activities in Tanzania, and agreed to pay £30 million (see [Jarett and Taylor, 2010](#)).

The company has long enjoyed a close relationship with government. In 2004, the then-prime minister Tony Blair overruled advice given by the Advisory Committee on Business Appointments over the appointment of commander-in-chief of RAF Strike Command, Chief Marshal Sir John Day, as a military adviser to BAE Systems, on the grounds that the appointment was in the national interest. Sir John had, the Advisory Committee noted, 'been involved with Air Force Board decisions that would have had a direct bearing on the MOD's business with the company'. As such, the Advisory Committee decided that 'on the basis of the normal propriety principles and criteria we apply through the Rules, he should wait one year from his last day in post as commander-in-chief, Strike Command to ensure that the appointment was not open to criticism'. However, the prime minister ruled that only the standard three-month wait should apply, with certain conditions ([Advisory Committee on Business Appointments, 2004](#)).

Al Yamamah ('the dove') is an agreement between the UK and Saudi Arabian governments, which involves the former supplying the latter with military equipment and associated material. BAE Systems is the main contractor in an arrangement which began in 1985. As part of the deal, a further agreement was signed in 2005 to provide 72 Eurofighter Typhoon fighter jets.

There were in September 2003 claims in the press that BAE Systems was using a £20 million 'slush fund' for the bribery of Saudi officials. The Serious Fraud Office (SFO) stated that it was considering a criminal investigation. In December 2006, it was reported that the Saudi government had warned that if the investigation was not ceased, the UK would lose the Eurofighter contract. On the 15th of that month the SFO announced that it was discontinuing its inquiry. The explanation offered by the SFO was that there was a need 'to balance the need to maintain the rule of law against the wider public interest'. There was a fear, the attorney general, Lord Goldsmith, explained, 'that continuation of the investigation would cause serious damage to UK/Saudi security, intelligence and diplomatic co-operation' with repercussions for the achievement of UK foreign policy objectives (see [Jarett and Taylor, 2010](#)).

In April 2008, the high court ruled that the SFO decision was unlawful; but in July 2008 the SFO successfully appealed against this decision in the House of Lords.

In October 2008, the OECD Working Group on Bribery in International Business Transactions noted that its lead examiners were worried about the involvement of government ministers in the SFO decision, and considered ([Working Group on Bribery in International Business Transactions, 2008](#)):

'that the UK government did not engage in sufficient efforts to develop and explore alternatives to terminating the Al Yamamah investigation [...] The lead examiners are also not convinced that the prosecutorial authorities sufficiently scrutinised the national security justifications with regard to the Al Yamamah case [...] They consider that the new developments since then, including the additional information gathered in the context of the on-site visit and provided in connection with the judicial review proceeding, have reinforced and intensified the serious concerns with regard to its consistency with the Convention [on Combating Bribery of Public Officials in International Business Transactions]. They do not believe that the decision of the House of Lords in the Al Yamamah case allays these concerns'.

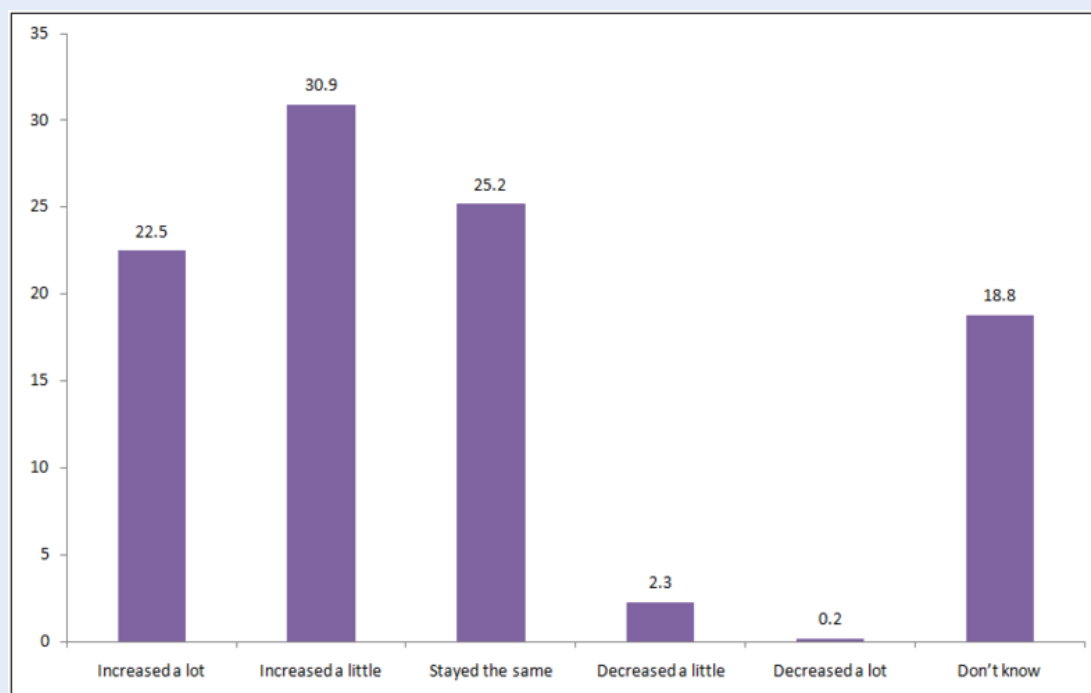
2.6.5 Popular confidence in the integrity of public officials

How much confidence do people have that public officials and public services are free from corruption?

Since the previous Audit reported in 2002, there has been a serious decline across a range of measures of public confidence in the probity of public officials and public services. These trends are likely to reflect the influence of events such as the cash-for-honours affair and the scandal over MPs' expenses (see Case Study [2.6c](#)). Opinion research conducted by Transparency International UK in July 2010 ([Barrington, 2011](#)), for instance, showed that more than half of respondents believed that corruption generally (not just in the public sector) had increased in the UK over the previous three years. As Figure 2.6i shows, 53.4 per cent of respondents felt corruption had increased to at least some degree and almost a quarter said that it had 'increased a lot'. By contrast, only 2.5 per cent felt confident that corruption had decreased over this time period.

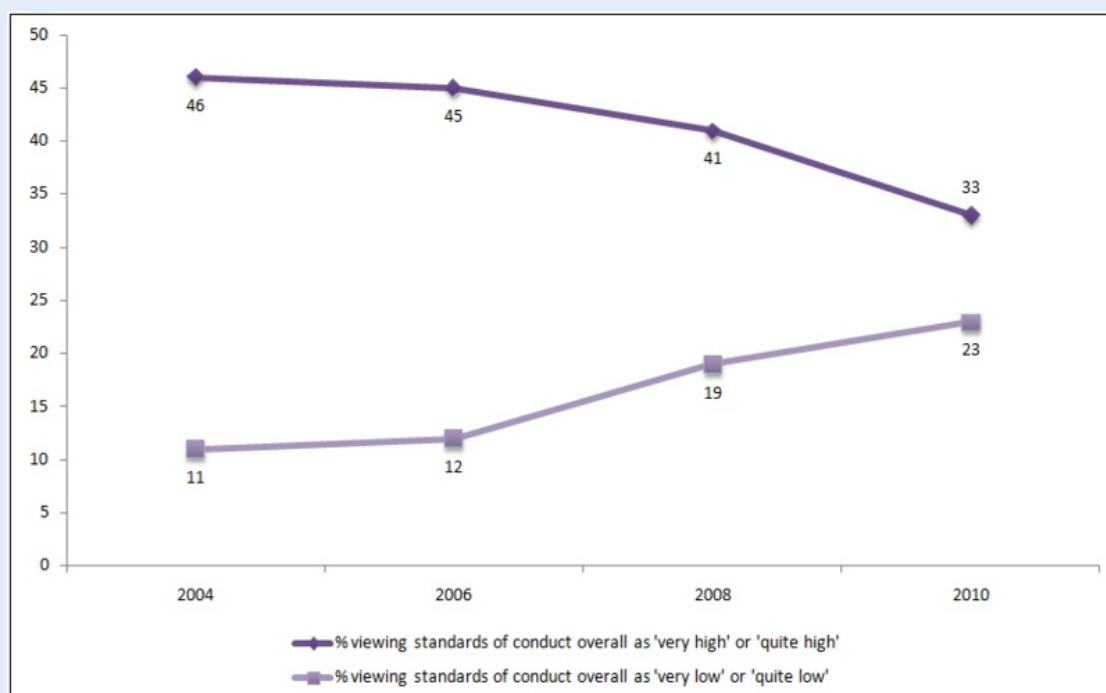
Figure 2.6i: Public perceptions of the extent to which corruption has changed in the UK in the past three

years

Source: [Barrington \(2011\)](#).

Though not dealing specifically with corruption, regular surveys by the Committee on Standards in Public Life on public attitudes towards standards in public life also provide evidence of declining public confidence in standards, from levels which were not particularly high to begin with. Figure 2.6j shows that, between 2004 and 2010, the proportion of respondents perceiving standards of conduct in UK public life as either 'very high' or 'quite high' declined from 46 to 33 per cent. Meanwhile, those respondents regarding standards of conduct in public life as either 'very low' or 'quite low' rose from 11 to 23 per cent over the same period.

Figure 2.6j: Overall perception of standards of conduct in UK public life

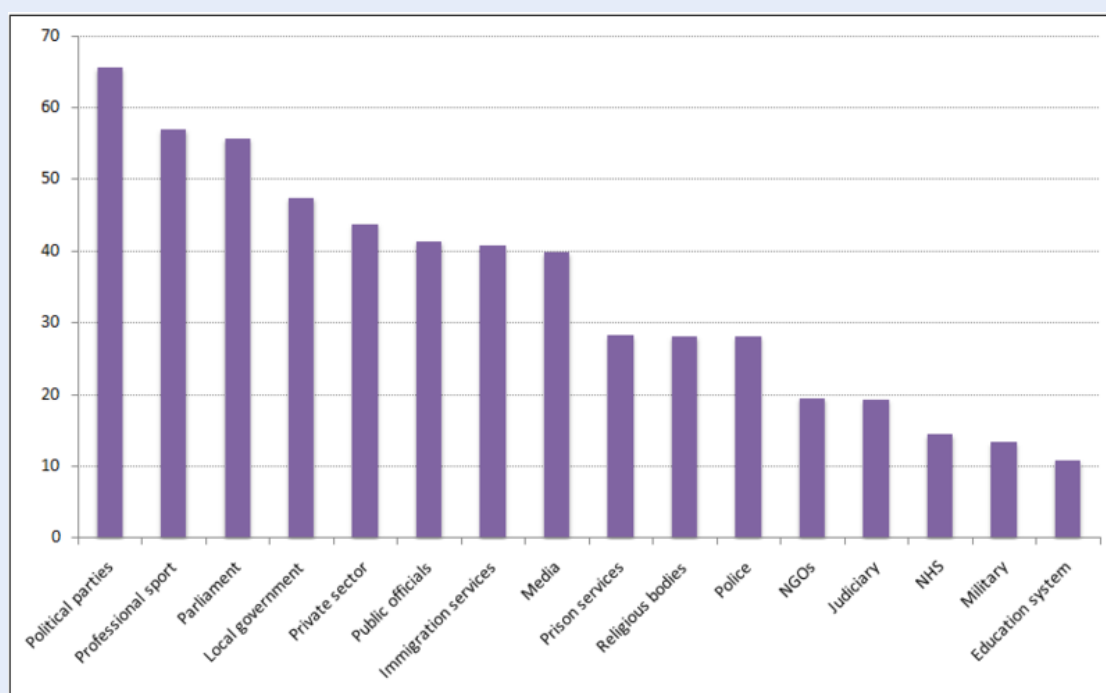


Note: Percentage response figures for 'neither high nor low' and 'don't know' have been omitted.

Source: [Committee on Standards in Public Life \(2011\)](#).

Of course, not every public service or group of public officials is distrusted to the same extent. As Figure 2.6k shows, political parties and parliament are regarded as corrupt by over half of the respondents surveyed for Transparency International UK's study. However, fewer than 15 per cent of respondents felt that the education system, the military and the National Health Service, the three institutions least suspected of corruption, suffered such problems. Nonetheless, Figure 2.6k points to a fairly pervasive sense of corruption across a variety of bodies, including local government, the private sector, the media and the police. Moreover, it seems likely that the media and police would perform worse if the survey had been repeated in the wake of the phone hacking scandal.

Figure 2.6k: Perceptions of corruption in specific sectors

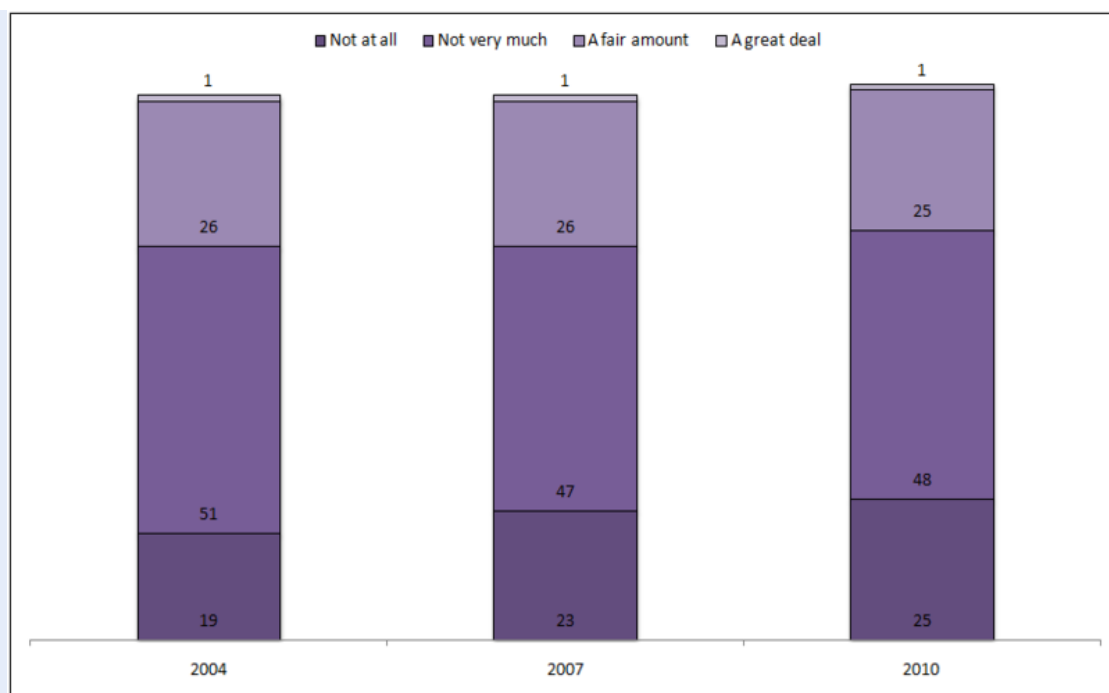


Source: [Barrington \(2011\)](#).

There are, however, some strong grounds to suggest that corruption in the UK is more of a public confidence problem rather than a regular feature of many people's lives. In the Transparency International UK survey, only 13.7 per cent said they had been personally affected by corruption (although 33 per cent suspected that corruption had taken place in a specific transaction). A further problem relating to confidence was suggested by the fact that only 1.4 per cent believed that the government was 'very effective' at tackling corruption; while 17.9 per cent believed it was 'very ineffective' and over half were grouped between 'somewhat' ineffective and effective ([Barrington, 2011](#)). As has been observed with opinion polls on the quality of public services, there is often a significant difference in what survey respondents regard as a 'general' situation and what they experience personally. Similarly, members of the public tend to evaluate their own MP far more favourably than MPs in general ([Hansard Society, 2010](#)).

However, these caveats aside, there can be little doubt that distrust of politicians is a long-standing problem. Indeed, as the Hansard Society's Audits of Political Engagement (and other studies) suggest, the revelations over MPs' expenses did relatively little to alter public perceptions - probably because levels of trust were already exceptionally low. As Figure 2.6l shows, levels of public trust in politicians have languished at similar depths since 2004, with around three-quarters saying that they trust politicians either 'not very much' or 'not at all'.

Figure 2.6l: Percentage trust in politicians



Source: [Hansard Society \(2010\)](#).

International perceptions of the UK

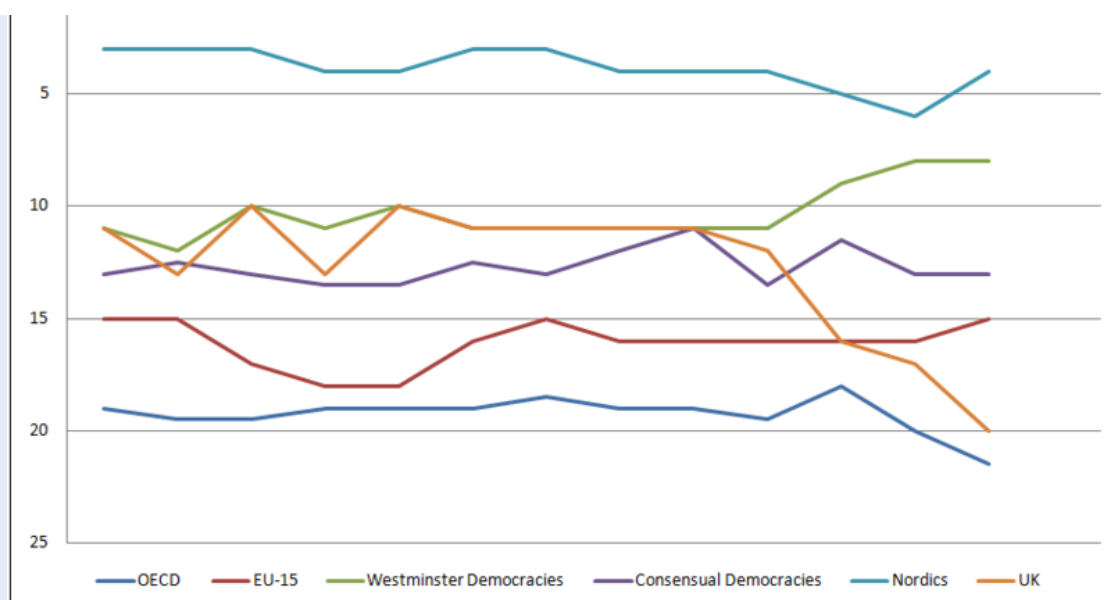
There is evidence that the international reputation of the UK for being corruption-free, measured in comparative international terms, is declining. The Transparency International 'Corruption Perceptions Index' ranks countries based on how corrupt their public sectors are perceived to be, drawing on a variety of different data sources and assessments. Because corruption is by its very nature hard to measure objectively, the index reflects levels of corruption perceived among local populations and international businesses. Index numbers are not intended to be comparable over time or used for time series analysis, but broad trends can be ascertained from the data – including the relative placement of comparable countries in the rankings.

Prior to 2008, the UK was usually somewhere around 11th in the world rankings of 'clean' countries - making it broadly comparable to places such as Australia and sometimes Canada, but placing it significantly behind world leaders such as Denmark, Sweden, Finland, Singapore and New Zealand. There was an abrupt decline in the UK's performance on the index in 2008, linked to the dropping of action against BAE (see Case Study [2.6f](#)), failure to bring forward promised anti-corruption legislation and growing concern in politics about 'cash for honours' allegations and MPs' expenses (see Case Study [2.6c](#)). Since then, the UK has ranked between 15th and 20th - a position broadly comparable to that of France, Japan, the USA and Ireland, but below that of Germany.

Figure 2.6m shows how the UK has performed since 1998 in the index rankings against the averages for the main groups of established democracies used as comparators throughout this Audit. As can be observed from the chart, the United Kingdom's reputation has significantly deteriorated in relative terms. While the UK's ranking has always tracked significantly below the average for the Nordic countries, it was closely in line with the average for both the Westminster and the consensual democracies from 1998-2007 and very clearly above the average for both the EU-15 and the OECD. However, the steady decline in the UK's relative position after 2008 has seen its ranking fall below the average of the other established democracies and also that of the EU-15. While the UK's current ranking by this measure is not in itself disastrous, it does appear to reflect a clear decline in confidence in the ethical basis of UK institutions. Indeed, the fact that it has been possible for the highest-ranking countries to maintain their reputations makes the UK's relative decline all the more concerning, and is a corrective to the common UK perception that standards in foreign countries are lower than in the UK.

Figure 2.6m: Transparency International's Corruption Perceptions Index Rankings: UK's and comparators' performance, 1998-2010





Source: [Transparency International \(2010\)](#).

Conclusion

Over the period of this Audit there have been some clear improvements in the systems designed to ensure integrity in public life - partly, it must be said, as a result of scandals serving to highlight failures in those systems. Changes include the establishment of an independent body to oversee MPs' expenses, pay and pensions; the appointment of an independent adviser on ministerial interests; a statutory basis for the regulation of the civil service; a House of Lords commissioner for standards; an overhaul of bribery legislation; and the withdrawal of the prime minister from the honours system (excluding peerages).

However, a number of problems have persisted since the publication of the last Audit. Ensuring probity in the conferral of peerages, for instance, continues to pose difficulties; while measures for preventing commercial and other interests achieving inappropriate influence over political processes are clearly not yet fully effective. Though admittedly a complex task, particular problems in this latter area include the various direct and indirect means by which parties and politicians can be funded by sectional interests; as well as the weakly-regulated interchange of personnel between Whitehall and the private sector (referred to in this section as the 'revolving door'). Given all this, it is perhaps not surprising that overall public confidence in the integrity of public life remains low, and indeed appears to have fallen since the last Audit reported.

The findings reported in this section are central to a number of the overarching themes of the current Audit as a whole. Most obviously, our concerns about a general pattern of declining faith in public institutions are strongly borne out by the evidence presented in this section. Declining public confidence in the integrity of office holders reflects a wider lack of faith that public institutions are free from corruption and that problems of corruption are being tackled in the public sector and beyond. However, the issues we identify in this section go beyond what is technically defined as corruption. There is also evidence of a more general trend towards particular groups and individuals wielding clearly disproportionate influence over political and policy-making processes, which reflects the wider patterns of widening political inequality we highlight throughout the Audit. Corporate interests and wealthy individuals, in particular, appear to have established increasingly privileged positions within circles of governmental, underlining the issues we raise throughout this Audit about the corrosive impact of corporate power on UK democracy.

Taken together, these findings strongly reaffirm what is perhaps the most important of our five overarching theme: that representative democracy as we know it is in long-term decline. Key representative institutions, most notably parliament, are fatally undermined if they are perceived to be riddled with corruption and if policy decisions are seen to be taken 'behind closed doors' between ministers and lobby groups. Yet, if we are to be able to address the democratic concerns we identify throughout this Audit, this section also highlights a quandary that policy-makers must somehow address: the welcome growth of transparency and independent regulation in political affairs has, to date, done little or nothing to restore public faith in democratic institutions; if anything it has undermined it still further.

References

- Advisory Committee on Business Appointments (undated) [Guidelines on the acceptance of appointments for employment outside government by former ministers of the Crown](#), London: ACOBA/Cabinet Office.
- Advisory Committee on Business Appointments (2004) [Sixth Report 2002-2004](#), London: ACOBA/Cabinet Office.
- Advisory Committee on Business Appointments (2009) [Tenth Report 2008-2009](#), London: ACOBA/Cabinet Office.
- Advisory Committee on Business Appointments (2010) [Eleventh Report 2009-2010](#), London: ACOBA/Cabinet Office.
- Advisory Committee on Business Appointments (2011) [Appointments taken up by former Ministers since 1 April 2010 \(or, if earlier, where notification received after 1 April 2010\)](#), London: ACOBA/Cabinet Office.
- Allen, A. (2011) '[Dishonourable members? Exploring patterns of misconduct in the contemporary House of Commons](#)', *British Politics*, 6 (2), pp. 210-240.
- Baker, A. (2000) *Prime Ministers and the Rule Book*, London: Politico's.
- Ball, J. (2011) '[Links between government and business: full data](#)', *Guardian*, 16 October.
- Barrington, R. (ed.) (2011) [Corruption in the UK: Part One, National Opinion Survey](#), London: Transparency International UK.
- Baston, L. (2004) *Reggie: The Life of Reginald Maudling*, Stroud: Sutton.
- Beetham, D. (2005) *Democracy: A Beginner's Guide*, Oxford: Oneword Publications.
- Beetham, D. (2011) [Unelected Oligarchy: Corporate and financial dominance in Britain's democracy](#), Liverpool: Democratic Audit.
- Beetham, D., Byrne, I., Ngan, P. and Weir, S. (2002) *Democracy Under Blair: A Democratic Audit of the United Kingdom*, London: Politico's.
- Birch, S. (2005) 'Explaining Confidence in the Conduct of Elections', paper presented at the Elections, Public Opinion and Political Parties Conference, University of Essex, 9–11 September.
- Blick, A. (2004) *People Who Live in the Dark: the history of the special adviser in British politics*, London: Politico's/Methuen.
- Blick, A. and Hennessy, P. (2011) [The Hidden Wiring Emerges: the Cabinet Manual and the working of the British constitution](#), London: Institute for Public Policy Research.
- Burall, S., Donnelly, B. and Weir, S. (eds.) (2006) *Not In Our Name: Democracy and Foreign Policy in the UK*, London: Politico's.
- Bureau of Investigative Journalism (2011a) '[Questions raised over MPs' conflicts of interests](#)', London: BIJ.
- Bureau of Investigative Journalism (2011b) '[Concerns over questions asked by MPs with business interests](#)', London: BIJ.
- Butler, D. and Butler, G. (2000) *Twentieth-Century British Political Facts*, Basingstoke: Palgrave Macmillan.
- Cabinet Office (2010a) [Civil Service Code](#), London: Cabinet Office.
- Cabinet Office (2010b) [Ministerial Code](#), London: Cabinet Office.
- Cabinet Office (2011) [Civil Service Management Code](#), London: Cabinet Office.
- Cabinet Secretary (2011) [Allegations against Rt Hon Dr Liam Fox MP](#), London: Cabinet Office.
- Campbell, A. (2008) *The Blair Years*, London: Arrow.
- Committee on Standards in Public Life (1995) [Summary of the Nolan Committee's first report on standards in public life](#), London: CSPL.

- Committee on Standards in Public Life (1998) [*The funding of political parties in the United Kingdom*](#), London: CSPL.
- Committee on Standards in Public Life (2009) [*MPs' expenses and allowances: Supporting parliament, safeguarding the taxpayer*](#), London: Stationery Office.
- Committee on Standards in Public Life (2004) [*Survey of public attitudes towards conduct in public life*](#), London: CSPL.
- Committee on Standards in Public Life (2006) [*Survey of public attitudes towards conduct in public life*](#), London: CSPL.
- Committee on Standards in Public Life (2008) [*Survey of public attitudes towards conduct in public life*](#), London: CSPL.
- Committee on Standards in Public Life (2011) [*Survey of public attitudes towards conduct in public life 2010*](#), London: CSPL.
- Committee on Standards in Public Life (undated) [*Review of MPs' expenses and allowances: timeline of events*](#), London: CSPL.
- David-Barrett, L. (2011) [*Cabs for hire? Fixing the revolving door between government and business*](#), London: Transparency International UK.
- Doig, A. (1984) *Corruption and Misconduct in Contemporary British Politics*, Harmondsworth: Penguin.
- Dowding, K. and Subrahmanyam, G. (2007) [*Ministerial resignations data*](#), London: London School of Economics.
- Electoral Commission (2005) [*Election 2005: campaign spending*](#), London: The Electoral Commission.
- Electoral Commission (2010) [*Case summary: Electoral Commission investigation into donations reported by the Conservative Party from Bearwood Corporate Services Limited*](#), London: The Electoral Commission.
- Electoral Commission (2011) [*UK General Election 2010: Campaign Spending Report*](#), London: The Electoral Commission.
- Eggers, A. C. and Hainmueller, J. (2009) 'MPs for sale? Returns to office in postwar British politics', *American Political Science Review*, 103 (4), pp. 513-533.
- Ewing, K.D. (2007) *The Cost of Democracy: Party funding in modern British politics*, Oxford: Hart.
- Ewing, K. (2008) '[*Plugging the loopholes in party funding*](#)', *Parliamentary Brief*, November.
- Faccio, M. (2006) '[*Politically connected firms*](#)', *American Economic Review*, 96 (1), pp. 369-86.
- Gay, O. (2010) [*Regulation of Standards of Conduct in the House of Lords*](#), London: House of Commons Library.
- Gay, O. and Hitchins, A. (2010) [*Business Appointment Rules*](#), London: House of Commons Library.
- Gay, O. and Powell, T. (2004) [*Individual ministerial responsibility: issues and examples*](#), London: House of Commons Library.
- Hansard Society (2010) [*Audit of Political Engagement 7*](#), London: Hansard Society.
- Hennessy, P. (2001) *Whitehall*, London: Pimlico.
- Hickey, G. and Macaulay, M. (2011) [*Corruption in the UK: Part Three*](#), London: Transparency International UK.
- Home Affairs Select Committee (2011) [*Unauthorised tapping of or hacking into mobile phone communications*](#), London: House of Commons.
- House of Commons Information Office (2009) [*Members' pay, pensions and allowances*](#), London: House of Commons Information Office.
- House of Commons Members Estimates Committee (2010) [*Review of past ACA payments*](#), London: Stationery Office.
- House of Commons (2009) [*The Guide to the Rules relating to the conduct of Members*](#), London: Stationery Office.

- House of Lords Committee for Privileges (2009) [*The Powers of the House of Lords in respect of its Members*](#), London: Stationery Office.
- House of Lords (2010) [*Code of Conduct for Members of the House of Lords*](#), London: Stationery Office.
- Independent (2008) '[MPs face ban from lucrative second jobs](#)', 24 July.
- Independent Parliamentary Standards Authority (2011) [*The MPs' Expenses Scheme*](#), London: Stationery Office.
- Jarrett, T. and Taylor, C. (2010) [*Bribery allegations and BAE Systems*](#), London: House of Commons Library.
- Joint Committee on Parliamentary Privilege (1999) [*First Report*](#), London: Stationery Office.
- Klug, F., Starmer, K. and Weir, S. (1996) *The Three Pillars of Liberty: Political Rights and Freedoms in the United Kingdom*, London: Routledge.
- KPMG (2011) [*Global Anti-Bribery and Corruption Survey 2011*](#), Geneva: KPMG.
- Krishnan, C. and Barrington, R. (2011) [*Corruption in the UK: overview and policy recommendations*](#), London: Transparency International.
- Lindblom, C. (1977) *Politics and Markets*, New York: Basic Books.
- Linton, M. (1993) *Money and Votes*, London, Institute for Public Policy Research.
- Marshall, G. (ed.) (1989) *Ministerial Responsibility*, Oxford: Oxford University Press.
- Ministry of Justice (2011) [*The Bribery Act 2010: Quick start guide*](#), London: Ministry of Justice.
- National Audit Office (2006) [*Central government's use of consultants*](#), London: Stationery Office.
- Parliamentary Commissioner for Standards (2003 - 2011), [*Annual Reports of the Parliamentary Commissioner for Standards*](#), London: Stationery Office.
- Pinto-Duschinsky, M. (1981) *British Political Finance: 1830-1980*, London: American Enterprise Institute for Public Policy Research.
- Pinto-Duschinsky, M. (1985) 'Trends in British political funding, 1979-1983', *Parliamentary Affairs*, 34 (3), pp. 197-212.
- Pinto-Duschinsky, M. (1989) 'Trends in British party funding, 1983-1987', *Parliamentary Affairs*, 38 (3), pp. 328-347.
- Pinto-Duschinsky, M. (2008) [*Paying for the Party: Myths and Realities in British Political Finance*](#), London: Policy Exchange.
- Public Administration Select Committee (2006) [*Propriety and Honours: Interim Findings*](#), HC-1119, London: House of Commons.
- Public Administration Select Committee (2007a) [*Ethics and Standards: The Regulation of Conduct in Public Life, Volume I*](#), London: House of Commons.
- Public Administration Select Committee (2007b) [*Propriety and Peerages*](#), London: House of Commons.
- Public Administration Select Committee (2008) [*Lobbying: Access and influence in Whitehall*](#), London: House of Commons.
- Public Administration Select Committee (2010) [*Outsiders and Insiders: External Appointments to the Senior Civil Service*](#), London: House of Commons.
- Rowbottom, J. (2010) *Democracy Distorted: Wealth, Influence and Democratic Politics*, Cambridge: Cambridge University Press.
- Transparency International (2010) [*Corruption Perceptions Index 2010*](#), Berlin: Transparency International.
- Weir, S. and Beetham, D. (1999) *Political Power and Democratic Control in Britain*, London: Routledge.

- Weir, S. (ed.) (2007) [*A World of Difference: Parliamentary Oversight of British Foreign Policy*](#), London: Democratic Audit, Federal Trust, One World Trust.
- Wilkinson, P. (2010) [*The 2010 UK Bribery Act: Adequate Procedures*](#), London: Transparency International.
- Wilks-Heeg, S. (2008) [*Purity of Elections in the UK: Causes for Concern*](#), York: Joseph Rowntree Reform Trust.
- Working Group on Bribery in International Business Transactions (2008) [*United Kingdom: Phase 2bis*](#), Paris: Organisation for Economic Co-operation and Development.