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Seven Principles of Public Life: time to rethink

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Abstract. The Seven Principles of Public Life, developed by the Nolan Committee, were introduced without argument or justification. They have relied heavily on the imposition of standards from above, rather than the development of ethical practice or culture. The principles are muddled and unclear, but beyond that they have signally failed to relate to many of the key ethical issues which have arisen in public services in the intervening period. This paper reviews both some of the alternative principles that might be considered, and the possibility of a different approach based on virtue ethics.

Key words: Nolan, ethics, standards of public life, principles, public office.

The Independent Commission on Good Governance in Public Services identifies a dilemma in the promotion of ethical standards in public life. On one hand, they argue that effective governance depends on explicit, open, transparent standards. On the other, 'Good governance ... cannot be reduced to a set of rules, or achieved fully by compliance with a set of requirements. ... A hallmark of good governance is the development of shared values, which become part of the organisation's culture, underpinning policy and behaviour throughout the organisation, from the governing body to all staff.' (ICGGPS, 2004, p 13) Ethical conduct cannot easily be codified; ethical conduct depends on the ability and willingness of those engaged in public life to adapt their behaviour in circumstances and contexts which are unpredictable and uncertain. An emphasis on personal integrity calls for the internalisation of values rather than more explicit codes of conduct. A distinction can be drawn, then, between compliance-based and integrity-based ethical systems (Lawton et al, 2012, ch 7). Most of OECD countries use broadly based codes, putting more emphasis on integrity than specific rules subject to discipline. (Gilman, 2005, p 21), On the face of the matter, the guidance issued in the UK is also concerned with the promotion of integrity. That aspiration has to be qualified, however, because existing systems are characterised by a strong element of managerialism and an apparent belief that such standards can be established and directed centrally.

The Committee on Standards in Public Life was set up under its first chair, Lord Nolan, after accusations of 'sleaze' in national politics. It had a broad remit:

To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.

The initial focus on 'holders of public office' fell on MPs, but the remit runs much wider; it is concerned not only with senior officials but with police officers, army officers, executive officers in the civil service and local authority officers (see Crown Prosecution Service, n.d.) In the same spirit, the Committee's work extends widely across the public services, applying to a wide range of public appointments. The press often refer to the Committee as a 'watchdog', and not infrequently as a 'sleaze watchdog' (e.g. Daily Mail, 2008; Independent, 2012; Daily Telegraph, 2013). From the outset, however, the Committee has identified its role in different terms: its task is to clarify standards, to mark out the boundaries and to recommend appropriate mechanisms of governance.

The Committee has remarked on previous attempts to maintain standards in local government, which 'had generated a large number of apparently minor, vexatious and politically motivated complaints' (Cm 6407, 2005, p 2). There was mistrust about the nature of the compliance being demanded: a resentment of central control, a resistance to intrusive inquiries and a general lack of clarity about acceptable conduct. (Cm 6407, 2005, p 2-3) The Committee interpreted the situation it was dealing with in these terms:

the standards which the public demands remain high, and ... the great majority of people in public life meet those high standards. But there are weaknesses in the procedures for maintaining and enforcing those standards. As a result people in public life are not always as clear as they should be about where the boundaries of acceptable conduct lie. This we regard as the principal reason for public disquiet. It calls for urgent remedial action.

The Committee needed then to establish not so much a system for enforcement, as a set of standards that could be referred to explicitly and transparently. They sought to develop their approach in the first instance through the identification of 'seven principles of public life': selflessness, integrity, objectivity, accountability, openness, honesty and leadership. (Cm 2850, 1995) Their remit may have begun with the issue of propriety, but the range of standards here goes rather beyond that. Accountability, objectivity, openness and leadership are concerned with the actions that 'holders of public office' take in the exercise of their role.

The Committee has indicated that it hopes through the use of its principles to promote an ethical culture, 'embedding ... ethical principles in the policies, practices and culture of each organisation, reinforced by peer pressure.' (Cm 8519, 2013, p 8) They have suggested that the precise terms of the guidance they issue are not important: the value of the principles they advocate 'lies not in their exact formulation but in the behaviour which they stimulate when – adapted or not – they become part of an organisation's culture.' (Cm 8519, 2013, pp 22-23) That might seem to favour an emphasis on internalised values rather than managerial direction. However, that sits rather uncomfortably with the Committee's role in defining codes and boundaries - and indeed with expectations of a 'watchdog'. In a series of reports, the Committee has produced detailed, specific recommendations covering the conduct of a range of activities in public service.

The Seven Principles are presented as lying at the core of that process. Reference to the 'seven standards of public life' is required throughout the public sector. The Committee's first report recommended that 'All public bodies should draw up Codes of Conduct incorporating these principles', (Cm 2850, para 6.) and the list has been disseminated

throughout the public services. The principles have been routinely referred to by public service bodies ever since, including central government, local government, health services and public agencies of all kinds - expert committees, academic bodies, even museums. The first Nolan report specifically called for a 'standardised' approach:

'Following recent scandals, much has been done to improve and standardise arrangements to secure high standards of conduct in NDPBs (*non-departmental public bodies*). This process needs to continue. All NDPBs and NHS bodies should have codes of conduct, in line with the principles which apply to all public bodies, for board members and staff. ... The adoption of a code of conduct for board members should be made mandatory for each executive NDPB and NHS body. It should be mandatory for the board of each executive NDPB and NHS body to adopt a code of conduct for their staff. Board members and staff of all executive NDPBs and NHS bodies should be required on appointment to undertake to uphold and abide by the relevant code, and compliance should be a condition of appointment.' (Cm 2850, pp 6, 12-13.)

Acceptance of a code 'in line with' the principles is 'mandatory'. Codes of Practice and Codes of Conduct and the terms on which officials are appointed routinely refer to stock phrases about the standards. In the ministerial codes and in applications for public appointments, people are 'expected to observe the Seven Principles of Public Life'. Members of NHS trusts are routinely enjoined to 'uphold the highest standards of conduct set out in The Seven Principles of Public Life'. A range of public bodies, including the Independent Police Complaints Commission, the Care Quality Commission and the Medical Research Council, specify that their members 'must follow the Seven Principles'. The Committee has reinforced this general fiat with a strong emphasis on the role of 'leadership' in promoting the values - which seems to suggest that ethical conduct depends on moral direction. They stress, for example, that 'those in authority must show leadership in *driving through* the necessary changes in rules and culture' (Cm 7724, 2009, my emphasis), or that 'High standards need to be driven actively by leadership and example.' They insist on independent scrutiny to 'monitor compliance' (Cm 2850, p 18).

This is a long way from the 'ethical culture' that the Committee claims to foster. The Committee's report on local government recognised that in relation to the ethical culture of local government, 'the centralised system has arguably removed primary authority for standards from local authorities (and members).' (Cm 6407, 2005, p 79) That is the opposite of what they say they intend. The measures they have promoted are not about 'embedding' practice, discursive engagement or the development of shared values within public organisations; they have attempted to impose moral standards through the exercise of authority.

The Seven Principles considered

There was no argument or rationale made for the selection of the seven principles in the first Nolan report, and none has been made subsequently. When the principles are looked at in any critical light, some problems are immediately evident.

Two of the principles are easy to agree with, but both call for some qualification. The first of those is the principle of *accountability*. As the Nolan Committee explained it, '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.' (Cm 2850, 1995, p 14)

Public office is governed by the rule of law. All public authority in a democracy is delegated; in every case it has to be possible to trace that authority back to its source. The accountability of a police officer to a Chief Constable, of a teacher to a Head Teacher, of a social worker to a supervisor, is part of a chain of accountability that does not, and cannot, stop with the chief officer; it always leads back to properly constituted authority. Independent contractors working through the public services are subject to authority through the body that contracts them. That principle, at least, is general - and strikingly, it obtains as much in independent public services as it does in the public sector.

Accountability means many things, however, besides being subject to hierarchical authority. Local authority chief executives, for example,

'are accountable to a range of central government departments, national auditors, national inspectorates and other agencies for performance targets. ... The number and range of chief executives' real accountabilities is not recognised either by statute or by their employment contracts and is therefore left to be resolved by each individual council. This reality is not always welcomed or accepted by political leaders who see their chief executive as being simply responsible to the leader, the cabinet, or the council.' (SOLACE, 2005, p 7)

Public officials are legally accountable, and can be summoned to account for their actions in a court of law, whether that is as an individual (as it may be, e.g. for Directors of Childrens Services) or corporate. They are financially accountable: the fiduciary duties of public officials are distinct from other mechanisms of accountability, and in many cases financial returns are made to different agencies from the department or body from whom authority has been derived. They may be professionally accountable; the public service engages large numbers of doctors, nurses and teachers and social workers, who are simultaneously responsible to an organization and to the judgments of their peers. Accountability is more, then, than accountability to the public, and more than openness to scrutiny.

Another principle which is generally accepted is *honesty*. The Nolan Committee gave rather a strange explanation of what honesty means: 'holders of public office have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.' (Cm 2850, 1995, p 14) If that was to be taken as face value, honesty does not seem to mean that people should not be corrupt, or that they should not make decisions for illegitimate reasons such as bribery or nepotism. The Committee has since acknowledged that this is not how honesty is usually understood. 'The avoidance of conflicts of interest fits more obviously into our current understanding of integrity. Most people today would expect honesty to have a much broader meaning, focusing on truthfulness.' They propose this alternative: 'Holders of public office should be truthful.' (Cm 8519, 2013, para 3.8) This is not much better. If honesty only means 'telling the truth', the principle probably implies that officials should not knowingly mislead others - but there are many ways of misleading people that fall short of the lie direct. But if 'honesty' means 'open dealing', the principle of openness is covered under a different heading. Lawton and his colleagues put the principle in broader terms:

'Public service is a public trust; the public entrusts the public service to act on its behalf and not pursue personal gain. The confidence and trust in, and respect for, the

government by the governed depends on public servants being honest and being seen to be honest.' (Lawton et al, 2012, p 7)

The principle of *integrity* was reduced by the Nolan Committee to a single basic point - that 'holders of public office should not place themselves under any financial obligation to outside individuals or organizations that might influence them in the performance of their official duties' (Cm 2850, 1995, p 14). That is not in dispute, but it only relates to one form of corrupt practice. Integrity, properly understood, is wider than the performance of official duties. One aspect of integrity is to be consistent with stated values and principles; another is to be trustworthy - consistent and faithful to one's word. Integrity in this wider sense is potentially valuable, but its application is limited and contingent - the nature of public service entails that the moral values to which a public official personally adheres cannot be paramount. That is why, for example, registrars are not permitted to refuse to perform civil partnership ceremonies on religious grounds. Integrity in public office is not about being true to oneself, but true to one's purpose. That implies, in the context of public office, a sense of duty to the office, and duty to the public. As with honesty and accountability, then, the underlying principle is good; the presentation is not.

Some other principles are contingent - either they apply in some circumstances and not in others, or they mean different things in different contexts. *Objectivity* is not a universal value - in some cases, public officials may have a remit to act as an advocate or guardian for a constituency or a sector of society. Objectivity is a virtue in circumstances where officials are required to be objective. So, it is argued, people who act in a judicial capacity need to observe the principles of natural justice, which have been taken to include impartial judgment. The Committee recognised the complexities in their report on standards in local government (2005, p 72). Councillors are supposed to represent their constituents' interests; they are supposed to be engaged in partnership with a range of community organisations; but then they are also supposed to act impartially when these interests are at stake, which is nonsensical.

The Nolan Committee explained the principle of objectivity in these terms: 'in carrying out public business ... holders of public office should make choices on merit.' (Cm 2850, 1995, p 14) More recently, as part of a review of the principles under Sir Christopher Kelly, the Committee proposes this extension: 'Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.' (Cm 8519, 2013, para 3.8). That is not really adequate. Fairness has two components, procedural and substantive. (Weale, 1980) Procedural fairness depends on the consistent application of specified procedures; substantive fairness depends on the achievement of legitimate results. The reference in both formulations to choices being made 'on merit' is a reference to substantive fairness - and that is problematic. In the allocation of public housing, there used to be 'merit schemes' - methods of allocation on the merits of the case, which depended on the judgment of councillors about individual circumstances (Central Housing Advisory Committee, 1969). Merit schemes are hardly ever used nowadays, because they signally failed to achieve the standards of consistency and transparency that are needed to support public scrutiny. If decisions are made fairly and objectively, they will be made in relation to identifiable rules and procedures. If they are made 'on their merits', they will not be fair or objective.

Openness is another contingent virtue. The Nolan Committee declared that '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.' There are circumstances where public officials have a duty to be open; there are also circumstances, equally compelling, where they have a duty not to be. Accountability requires a degree of openness - but only a degree. Other situations require confidentiality. There are increasingly strict rules concerning data protection. And across the range of public activity, there are many contingencies where neither guideline clearly applies. That is because of a central aspect of democratically accountable authority, which is that most people in public office do not make decisions in their own right, in their own name. A chief officer in a local authority is not free to state openly that a decision made by the Council is unwise - that is not what being a chief officer means. The duty of most public officials is to perform a role so that those who are legitimately invested with the power to decide can effect their decision.

The last two principles, 'selflessness' and 'leadership', are muddled - which suggests that, right or wrong, they are mis-stated. *Selflessness* is supposed to mean that 'holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.' The principle has been particularly important in the scandal about MPs' expenses, where MPs were seen as taking advantage of a system for personal gain, but as it stands it goes much too far - the way this has been presented this seems to imply that public officials should not receive a salary, let alone be offered incentives. Julian Le Grand has written about the dilemma of whether public servants should be thought of as altruistic Knights or self-interested Knaves (Le Grand, 1997); the principle of selflessness seems to imply that they should be Buddhist monks. The point that is being adverted to seems to be a different one. It is the public service ethos: that the actions of public servants should always be taken for, and be justifiable in terms of, public benefit. That, however, overlaps with the interpretation of integrity, above.

The idea of *leadership* conflates at least two inconsistent ideas. 'Leadership' refers in the literature to all sorts of relationships - running things, motivating other people, a set of attributes and qualities that leaders are supposed to be invested with, a system of authority, a set of roles, a relationship with subordinates (Spicker, 2012). The Nolan principles are ostensibly directed at people invested with senior office, such as elected officers and senior managers; that is a particular kind of leadership. (Most holders of public office are not leaders in this sense - and despite the fashion for anyone and everyone to claim to be leaders, it may be an abuse of authority for them to claim otherwise: Cook, 1989; Behn, 1998.) The Kelly report emphasizes leadership as a formal role: 'It is the leaders of any organisation who are best placed to set an appropriate tone and promote the right culture. Elected representatives, board members and managers at all levels should exemplify the high standards of behaviour they require of others.' (Cm 8519, 2013, para 15) That is a common enough sentiment, but it has to be said that it is not clear that the senior holders of public office have such a moral effect.

Ethical leadership is something different. It has been defined as 'the demonstration of normatively appropriate conduct through personal actions and interpersonal relationships, and promotion of such conduct through two-way communication, reinforcement and decision making processes.' (Brown, Mitchell, 2010, p 585) If we accept that definition, it means that the 'leader' has to be directly engaged in a dialogue with the person being led. There is

no such interaction linking a council leader, chief executive or director of services with a social worker, teacher or housing officer. This is just not how contemporary public services work. Professionals, semi-professionals and officials may well be influenced by the structure and environment in which they carry out their duties, and many are directly influenced by their immediate supervisors and colleagues, but the more senior an official is, the more remote is the influence that senior officers have. Ethical leadership is a different kind of leadership from investiture in public office, and one cannot be assumed to have the characteristics of the other.

Viewed overall, the principles do not stand up well to examination. Frankly, they are slapdash. Some of the seven are more or less right, but they could be better expressed; some are contingent; others are just confused. Reviewing their statements about the principles in 2013, the Committee on Standards in Public Life commented that although they had received several submissions to the effect that the principles should by now have been revised, they did not see the point.

'Our view is that changing the principles now would be both pointless and unnecessary. It is clear to us that they can be criticised on a number of philosophical, semantic or other grounds. We doubt that if we were inventing them for the first time today they would look exactly the same. But we see no advantage, and the risk of some possible confusion, in seeking to alter them now.' (Cm 8519, 2013)

This looks like a device to deter close examination and deflect criticism. The Committee is clearly aware that its current presentation does not hold water - it admits as much in the second and third sentences. But then it goes on to say that the format of the principles doesn't really matter anyway. If that is so, there can be no justification for the mandatory, centralised imposition of these standards in the public service.

Applying the Seven Principles

There is an obvious difficulty in applying principles which are so ill-formed. When the Committee has offered detailed prescriptions for the 'governance of propriety' (the phrase is from Cm 6407, 2005, ch 4), it often appears that the relationship to the Seven Principles is tenuous. In considering public appointments, for example, the Committee links accountability to the avoidance of cronyism, openness to being explicit about accountability and objectivity to trust, and other principles (such as proportionality) are introduced (Cm 6407, 2005, ch 2). In the Committee's thirteenth report, on the funding of political parties, they apply different standards again: integrity, accountability, sustainability, fairness, proportionality and enforceability (Cm 8208, 2011, p 90). Or take the Committee's report on MPs' abuse of the parliamentary expenses system, which states:

'Members of Parliament, above all others, need to abide by the Seven Principles. Had there not been a collective failure to implement them consistently in the House of Commons, this report would not need to have been written. The Seven Principles need some elaboration in this context. ...' (Cm 7724, 2009, p 33)

In the elaboration that follows, there are ten bullet points, but only two can be directly related to the seven principles - one refers to 'probity and integrity', and the other to the need for the system to be 'open and transparent'. Other principles in the list include independent

scrutiny, not exploiting the system for the benefit of themselves or their party, equal status with citizens, value for the taxpayer, flexibility (rather a questionable moral virtue), the need for robust sanctions, a comprehensible system and the relevance of expenses to public duties. This, they claim, is 'derived from an elaboration of what we believe the Seven Principles of Public Life require in this context'(Cm 7724, 2009, p. 9). It looks, rather, like a clear statement of the failure of the Seven Principles as they stand to address the issues at hand. That is why they have had to elaborate to such an extent.

The vagueness disguises a much more fundamental failure. Given the widespread distribution of the Seven Principles, their status over several years, and a long series of reports about their application (Committee on Standards in Public Life, 2013), it might reasonably be expected that they would have come to feature prominently in circumstances where public servants have acted improperly. That is not what has happened. In the Baby Peter case, a child died because the public agencies failed to act authoritatively against the child's parents. The failure to act was attributed largely to the system of management and the ethos of the service. The Laming Review emphasized the importance of accountability, professionalism, accepting personal moral responsibility for the actions of the agency and the role of senior managers:

The time is long past when the most junior employee should carry the heaviest burden of accountability. The performance and effectiveness of the most senior managers in each of these services should be assessed against the quality of the outcomes for the most vulnerable children and young people. (Laming, 2009, para 2.10.)

The Serious Case Review Inquiry concluded:

Peter deserved better from the services which were there to protect him, and they in turn deserved better than the ethos which influenced their work at the time. (Local Safeguarding Children Board Haringey, 2009, para 5.7.)

In Winterbourne View, patients with learning disabilities were assaulted and mistreated. The report comments that 'fundamental principles of healthcare ethics such as respect for autonomy, beneficence and justice were absent at Winterbourne View Hospital.' (Flynn, 2012, p ii).

In the case of the Mid-Staffordshire Hospitals, senior managers had their eyes on meeting the criteria for elevation to Foundation Trust status and failed to address issues of high mortality, incompetence and neglect. The Francis report prefaces its very brief mention of the Nolan principles on page 1401 with the comment that 'statements of general application are not always very prevalent or 'owned' by those who are intended to adopt them.' (Mid-Staffordshire NHS Foundation Trust Public Inquiry, 2013, para 21.3).

The Committee on Standards in Public Life has cited both Winterbourne and Mid-Staffordshire as examples of 'inappropriate ethical cultures' (Cm 8519, 2013, p 34). They are right to do so. These cases are concerned with distorted or illegitimate values, misplaced priorities and mismanagement. All three cases have lighted on the importance of managers accepting personal responsibility for the actions they take in public service, and the ability of junior officials to voice concerns. However, despite a brief genuflection in their direction in the third of these examples, the Nolan principles played no real part in the

consideration of any of the issues. We might legitimately ask - what is there about the seven standards of public life that should have helped to prevent those events? - and not find an answer. It is hard even to see how the Nolan principles could be applied to such cases.

Alternative approaches to statements of principle

Some bodies have attempted to extend the Nolan principles, for example by the inclusion of principles of duty, stewardship and respect (2013, p 22). Those are certainly important values, but the approach is unavoidably vulnerable to criticism. Any list of principles needs to be selective. It will always be incomplete, because no set of rules can ever be long or full enough.

The process of selection has some perverse consequences. It tends to mean that the most serious problems are not even mentioned. The Nolan principles do not say, for example, that public officials should not cooperate with genocide or torture. The principles do not say, as some codes do in other countries and other contexts, that officers should not exploit clients for sex, that they should avoid offering physical violence to others or that they should remain sober; those issues are taken for granted. Umberto Eco makes the point in one of his novels that the rules which are emphasized in codes of practice are always selected to reflect the vices that people are otherwise most likely to fall into (Eco, 1987). When we read in the Nolan principles that public officials should be selfless, objective and transparent, we can reasonably guess that the fears of those who framed the principles are that officials will be self-interested, partisan and secretive. But there are other important issues to consider, as the series of scandals implies.

If any set of principles is going to work, even approximately, it needs to mark out the fields where issues arise. One way to do this is to arrange the principles schematically, identifying not principles but broad headings in which issues like honesty or integrity can be set. If we are addressing the ethical conduct of public servants, for example, we probably need to consider

- *duties to the public* - for example, the public interest, the rights of citizens and duties to particular clients;
- *duties to the agency* - including duties as an employee, duties as a person invested with authority to act on the agency's behalf, and duties to improve services;
- *ethical constraints on the exercise of public functions* - for example, the exercise of authority and discretion, legitimate process and the use of power; and
- *the moral duties of the individual officer*, including general duties to others (for example, not to participate in immoral or degrading treatment), personal probity and particular duties (such as keeping promises made).

If the purpose of the exercise is to address the ethical norms which guide public agencies - the moral elements in a 'public service ethos' - the agenda needs to be different. The categories of norms include

- *The relationship of the agency to the public.* This includes principles of beneficence, the extent to which public agencies serve the interests of the public. (Some codes of practice, such as those in health care, also refer to non-maleficence, doing people no harm.). It also arguably includes principles of citizenship, including rights, voice,

- empowerment and redress.
- *The relationship of the agency to the system of authority.* This includes principles governing *legitimacy*, including the rule of law and the systems of accountability discussed earlier.
- *The conduct of the administration*, or principles governing process. These include administrative law, natural justice, fairness and the appropriate handling of information.
- *The relationship of officials to the agency*, primarily principles of probity. These include honesty, integrity, good conduct in the performance of duties and - a principle which applies to MPs' expenses - avoiding even the appearance of self-interest. (Five out of the seven Nolan principles fall into this category - the exceptions are accountability and openness - but the Nolan principles still do not directly specify that probity is required, or what it entails.)

The Nolan principles have signally failed to engage with a series of ethical issues in the public services. The scandals referred to - Baby Peter, Winterbourne and Mid-Staffordshire - fall down on the duties which officers or agencies owe to the public and to citizens. The Seven Principles do not address those issues; they do not even point in that direction. The schemes I have suggested here may well have gaps - that is inevitable, given the process of selection that is required - but at least neither of them makes that mistake.

Virtue ethics: promoting ethical conduct

The Nolan principles were agreed and imposed without giving enough thought to the message they have sent out. They have tried to impose ethical compliance through the exercise of centralised authority - a process that relies on external compliance rather than internal integrity. The problem is not just that the Committee has started with the wrong list, but that it has tried to do the job in quite the wrong way. 'A rule-based system', the House of Commons Public Administration Committee has warned, 'should never substitute for a culture of high standards.' (HC Public Admin Committee 2007, Ethics and standards, 2007 HC121.) Nothing in the Nolan principles is capable of generating such a culture - and its emphasis on compliance, mandatory process and executive direction all lead in the opposite direction. This is, bluntly, hamfisted.

The main alternative approach to deontological (or rule-based) ethics is 'virtue ethics'. Morality, in virtue ethics, flows not from conformity with a rule, but from the character of the moral actor (see Darwall, 2003). The test of a good action is that it is the sort of action that is chosen by a virtuous person; a good person is someone who will attempt to choose what is good, and by extension the same can be said of a good government, or a good public official (see Macaulay, Lawton, 2006). In a virtue-based system, the emphasis falls on the character, awareness and ethical consideration made by officials, rather than the specific content of particular actions. The American Society for Public Administration code of ethics offers guidance intended generally for officials in the public sector. The central principles in the 1994 code, currently under revision, are to serve the public interest; respect the constitution and the law; demonstrate personal integrity; promote ethical organizations; and strive for professional excellence. (ASPA, 1994a) This may look, at first blush, like yet another set of deontological principles. (A revision proposed in 2012 extends the list, including promoting democratic participation, strengthening social equity and fully informing and advising those in authority: ASPA, 2012. This takes ASPA in a different direction, but it is the 1994 version

that offers a distinctive approach.) There is a difference, however. The important point about this short version of the code is that it is not primarily rule-based. With the exception of the second theme, the main examples that ASPA gives are not so much about giving commands ('do not take bribes' or 'be open') as about establishing a disposition and frame of mind in public officials. So, when ASPA considered what it meant to 'serve the public interest', it advised that officials should

- 'Exercise discretionary authority to promote the public interest.
- Oppose all forms of discrimination and harassment, and promote affirmative action.
- Recognize and support the public's right to know the public's business.
- Involve citizens in policy decision-making.
- Exercise compassion, benevolence, fairness and optimism.
- Respond to the public in ways that are complete, clear, and easy to understand.
- Assist citizens in their dealings with government.
- Be prepared to make decisions that may not be popular.' (ASPA 1994b)

There are some deontological statements here, but they are leavened with another kind of norm. Much of it describes expectations about the disposition, conduct and behaviour of public officials, rather than the rules by which officials operate. The suggestion that officials should 'exercise compassion, benevolence, fairness and optimism' is the clearest illustration of that, but the other characteristics of ethical conduct include responsible use of power, a commitment to equality and engagement, responsiveness, helpfulness and putting the public interest first. It is an example, then, of virtue ethics.

Lawton and his colleagues, whose work is heavily influenced by virtue ethics, point to four key elements of moral conduct: moral sensitivity, the exercise of moral reasoning or judgment, moral motivation (the place accorded to moral values) and moral character (Lawton et al, 2012, pp 16, 124.) It may be impossible to specify all the rules and standards that are relevant, but it is clearly possible to establish a set of approaches and procedures that dispose people to the good - that is at the core of every professional code. Virtuous conduct is a matter of disposition, reflection, discussion and awareness, not simply of following pre-set rules. That is probably what the Committee on Public Standards is looking for, too, when it suggests it is looking for behaviour to be set in the context of an ethical culture. If it wants to achieve that, however, it has to start thinking in very different terms, looking for ways to ensure that people become engaged in a moral environment where they discuss ethical issues, make ethical judgements and take responsibility for their actions.

There are many circumstances which present serious ethical dilemmas for public service and public life, and they have little or nothing to do with the Nolan principles. It would not be difficult to replace the Nolan principles with better rules; but it may also be possible to supplement any list of principles with a set of values and approaches that are not 'principles' at all. If the object of ethical consideration is to promote ethical discourse, behaviour and culture, there is a strong argument for changing the nature and focus of the guidance that is being given.

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