

Statistics Commission

COMPARATORS TO THE STATISTICS COMMISSION

Statistics Commission Report No 14
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**A report to the Statistics Commission
by Graham Mather**

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1. INTRODUCTION

1.1. THIS REPORT

- 1.1.1. I have pleasure in submitting this report for the Statistics Commission.
- 1.1.2. I was asked to examine the roles of possible comparators to the Statistics Commission, including regulators and related models, and to provide a written report.
- 1.1.3. The Commission describes itself as a watchdog, but others have identified three particular roles - regulatory, advisory and supervisory, and I was asked to include in the report the following issues:
 - (i) identification of appropriate comparators for each of the possible models identified;
 - (ii) assessment and exposition of the extent to which each comparator identified is relevant to consideration of the Commission's role;
 - (iii) the strengths and weaknesses of the comparators as models for the Commission;
 - (iv) Any other relevant comments which might help us to assess the advantages and disadvantages of each model.
- 1.1.4. The full terms of reference for this report are set out in Schedule 1.

1.2. CONTENT OF THE REPORT

- 1.2.1. I identified four potential comparators in my response to the invitation to tender and subsequently added a fifth. The five comparators are:

Committee on Standards in Public Life – An Advisory Non-Departmental Public Body
Audit Commission – A Statutory Watchdog
Information Commissioner – A Changing Statutory Watchdog
Electoral Commission – A Modern Multi-Purpose Commission
Financial Reporting Council – A Self-Regulatory Watchdog

- 1.2.2. Each of these bodies can be called a watchdog, but they are very different in size, structure, lines of accountability and modes of operation. I believe that they provide a good cross-section of comparator bodies for the Statistics Commission.

1.2.3. RELEVANT DEVELOPMENTS IN THIS FIELD

- 1.3.1. This report for the Statistics Commission has come at a very timely moment in the discussion on the structure, reporting lines, accountability and modus operandi of Britain's watchdogs and regulators.
- 1.3.2. The House of Commons **Public Administration Select Committee**, to which I gave evidence last year, reported on 10 July on "government by appointment".
- 1.3.3. The **Constitution Unit** reported in April on "Officers of Parliament" and its report examined and categorized a number of the comparator bodies.
- 1.3.4. The Cabinet Office's **Better Regulation Task Force** is producing a report later this year on independent regulation and I have had the opportunity to discuss it with the Chairman of the BRTF Task Force concerned.
- 1.3.5. The Cabinet Office's **Office for Public Service Reform** is about to produce a review of external reviews and I have had the opportunity to discuss this with those responsible for it. It will be published subject to Ministerial clearance, before the summer recess with a statement of Government policy.

1.3.6 The **House of Lords Constitution Committee** will report this year on the accountability of regulators and I chaired a roundtable for its Chairman, Lord Norton of Louth, and a number of economic and other regulators in June.

1.4 STRUCTURE OF THIS REPORT

1.4.1 At Section 1.5 the comparator bodies are introduced and their main features noted.

1.4.2 In Chapters 2 to 6 the five organisations are examined in turn, looking at their relevance as a model, staffing and budget, membership, funding, accountability, main tasks and approach. The four public bodies then have sections on observations arising from discussion with them, and observations relevant for the Statistics Commission. The changes under way at the Financial Reporting Council, a private sector body, are analysed.

1.4.3 Cross-cutting analysis in Chapter 7 examines the way in which these organisations fit into the larger system of public bodies, sponsor departments and links to parliament, and the different techniques deployed by watchdogs.

1.4.4 The results of the study are then synthesised in a set of conclusions in Chapter 8.

1.4.5 My terms of appointment envisage that the key conclusions of the report will be used as a presentation at a seminar of Commission members to be held in autumn 2003, and that it may be appropriate to conduct some limited further research or clarification of issues arising following that seminar.

1.5 THE COMPARATOR WATCHDOGS – MAIN FEATURES

The comparator bodies have these main features:

2.0 *An Advisory Non-Departmental Public Body* (the **Committee on Standards in Public Life**).

- Depends on strong personal authority of Chairman
- Strongly dependent on Press support
- Relatively impermanent
- Lacking constitutional independence
- Small
- Cheap
- Can be very effective

3.0 *A Statutory Watchdog* (**Audit Commission**)

- Detailed statutory framework
- Detailed legal powers
- Not particularly personalised
- Detailed and technocratic
- Permanent
- Large
- Expensive but financed by charges from regulatees
- Difficult to measure effectiveness

4.0 *A Changing Statutory Watchdog* (**Information Commissioner**)

- Detailed statutory framework
- Creative use of legal powers
- Highly personalised by establishing

- Mid sized but visible
- Modernisation and strategic development under way
- A useful comparator as an example of dynamic strategy formation

5.0 *A Modern Multi-Purpose Commission* (**Electoral Commission**)

- Statutory but with strong links direct to Parliament.
- Takes leadership position in sector
- Adopts both best practice and representational/support role
- Strongly member led
- Works by outreach
- Small but growing fast
- Cheap but becoming more expensive
- Young but credible

6.0 *A Self-Regulatory Watchdog* (**Financial Reporting Council**)

- Non-statutory (so far)
- Strongly dependent on authority of Chairman
- Dependent on goodwill of sector
- Strong recent Government intervention to augment role
- May require statutory underpinning according to Secretary of State
- Small
- Cheap
- Under contemporary re-design.

In the following chapters each body is examined in turn.

2. THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

2.1. Relevance

2.1.1. The Committee on Standards in Public Life is a non-statutory body with responsibilities for reporting on standards of conduct of holders of public office, its “regulatory” role; and making recommendations on changes in present arrangements in this field, its “best practice” role. It is therefore a relevant comparator for the Statistics Commission.

2.2. Establishment, Staffing and Budget

2.2.1. The Committee was established in October 1994. It had about 10 staff but following a recent rationalisation programme now has a complement of 6. It has a budget of just under £500,000.

2.3. Membership of the Committee

2.3.1. The Prime Minister appoints the Chairman and members of the Committee for renewal periods of up to three years. Each of the three main political parties may nominate one person to serve on the Committee. Members of the Committee may claim a daily allowance for each day they work on Committee business if they do not already receive a salary from public funds.

2.4. Funding

2.4.1. The Committee as an advisory non-departmental public body receives its delegated budget from the Cabinet Office. The Secretary of the Committee is free to manage the allocation of the budget as thought best to deliver its activities and targets.

2.5. Accountability

2.5.1. The Committee reports to the Prime Minister. Its Secretariat is part of the Cabinet Office which allocates its budget.

2.6. Main Tasks of the Committee

2.6.1. The terms of reference of the Committee are:

”To examine current concerns about the 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”.

2.6.2. On 12 November 1997 the Prime Minister announced additional terms of reference:

”To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements”.

2.7. The Committee on Standards in Public Life’s Approach

2.7.1. The main *modus operandi* of the Committee is to produce reports on issues caught by its terms of reference.

2.7.2. It has developed a structured approach to its studies involving:

- a) Publishing a consultation paper setting out the issues in question which it believes of specific importance;
- b) Inviting written submissions based on the issues in question;
- c) Informal meetings with practitioners and experts;
- d) Formal hearings open to the public and the media at which the issues are explored in detail; and
- e) Publication of a report and the CD-Rom contain the transcripts of evidence, written evidence and other related material.

2.7.3. The Committee has published nine reports of which the seventh concerns *Standards of Conduct in the House of Lords*, the eighth *Standards of Conduct in the House of Commons* and the ninth *Defining the Boundaries of the Executive: Ministers, Special Advisors and Permanent Civil Servants*.

2.7.4. A review of progress systematically reviewing the action taken in the light of the Committee's first seven reports was published in September 2001. This stock take of some 308 recommendations provided the basis for a comprehensive review of the implementation, delivery and outcomes of the Committee's recommendations and provided a platform for the next stage of the Committee's work.

2.7.5. The Committee has achieved a high public profile and considerable authority, resulting in large part from the personal authority of its successive Chairmen, Lord Nolan, Lord Neill and Sir Nigel Wicks.

2.7.6. The stock take revealed that a high proportion of the Committee's recommendations had been followed. In a number of cases other bodies, such as the Office for the Commissioner of Public Appointments, have been set up to implement the approach recommended by the Committee. Broadly speaking the Committee has achieved a position in which most major recommendations it makes are expected to be followed by Government. Where, occasionally, recommendations are rejected, they are done so on very carefully argued grounds.

2.8. **Observations on the Committee on Standards in Public Life**

2.8.1. The Committee is a regulator or watchdog but does not handle individual cases and complaints are passed elsewhere to other watchdogs, ombudsmen, commissioners and so on. The Committee also, however, use a 'radar' system to examine both complaints in general and particular issues, to look across the whole system of Government and examine whether office holders have an adequate framework against which to operate.

2.8.2. The publication of the seven principles of public life by the Committee were a key element together with a Code of Conduct, a culture change and independent surveillance. The Committee does seem to have established a dramatic change in the perception of standards of conduct in public life during the course of its existence.

2.8.3. In the Constitution Unit's study the Commissioner for Public Appointments, (who is not organisationally or constitutionally related to the Committee but may be seen as a parallel officer) although not the Committee itself, was said to suffer from some perceived lessening of independence because of the fact that she is seen as an advisor to Ministers and was supported by the Cabinet Office Secretariat.

- 2.8.4. The Committee does not have a statutory underpinning nor would it necessarily want one. On the whole all those concerned have co-operated happily with the Committee with only one or two refusals. This results from the perceived authority of the Committee rather than from its structure.
- 2.8.5. In the same way the Committee's recommendations are only advisory in the constitutional system, even if they are likely to be definitive in practice and most of the recommendations have been accepted.
- 2.8.6. The Committee does not have an independent budget nor is its personnel separate from Government. Significantly, in terms of deciding its programme, this is done "after consultation" with the Prime Minister.
- 2.8.7. In practice does the lack of independence matter? So far the Committee seems to believe that it had not done so. Would it be better to be more independent? The mood is that it was not necessary to press this issue. If it had been established more recently than in 1994 it might be more likely to have a greater measure of structural independence and might also be established by statute.
- 2.8.8. The question arises as to whether the purpose of having a statute is to establish a particular structure or to confer significant powers. Powers to compel the attendance of witnesses, for example, might be useful. There are other benefits in formalising procedures quite apart from the greater authority this gave to a body, although the price of these might be greater legalism.
- 2.8.9. In terms of the balance in the Committee's work between problem solving and promoting best practice, the ratio until recently has probably been 9:1 in favour of problem solving but that the balance is now changing. The Committee has down-sized its Secretariat and lost two or three Secretariat members to adjust to a different work load. It is now examining with the support of academic advisers the public's wishes on standard setting and early indications are that this work shows signs of both higher and wider standards than the seven principles. It is not inconceivable that the seven principles will be altered to bring them into line with public expectation.
- 2.8.10. As with the Electoral Commission the Committee has benefited from the fact that there have been problems to solve. There is no doubt that the Committee enjoys a higher profile because of the problems which have occurred, for example, over the difficulties in relations between the traditional Civil Service and special advisers.
- 2.8.11. One of the great benefits it has in conducting its work is the fact that the press is on its side. Its recommendations are likely to be of interest to and supported by most newspapers.

2.9. **Observations which are relevant for the Statistics Commission**

- 2.9.1. The Committee on Standards in Public Life is a body rather similar to the existing form of the Statistics Commission i.e. a non-departmental public body reporting to a major department of Government.
- 2.9.2. In structural terms it has neither a statute governing its affairs nor strong perceived independence. It is accommodated within a Cabinet Office building. The Constitution Unit's study notes that "given the importance that the Committee has achieved in UK public life, it is surprising that its constitutional architecture has not been given more attention. If it was designed as permanent standing machinery, then it should have a Statutory basis and an independent budget."

- 2.9.3. The pressure is therefore for the Committee to acquire statutory status although it would be important in that eventuality to examine both structure and substance – i.e. will the structure assist the Committee in its work as well as the perception of its independence, and what would change as a result of having statutory underpinning.
- 2.9.4. There can be no doubt that the Committee on Standards in Public Life enjoys a high reputation and is seen to have been responsible for addressing a number of problems: paid advocacy for Members of Parliament, for example, or Ministers taking up jobs too soon after leaving.
- 2.9.5. In an ideal world the Committee in Standards of Public Life would be institutionalised in statutory form. If so I believe that appointments would be longer than the current three year pattern but might not be renewable – the ‘Central Bank’ model of lengthy but non-renewable appointments creates perceived independence and an incentive structure which means that those holding appointments have nothing to fear from the vigorous display of independence.
- 2.9.6. The importance which the Committee attaches to the media making its work possible is also a valuable factor to consider.
- 2.9.7. The Committee on Standards in Public Life is an interesting example of a rather classic type of watchdog. It owes much to the personal authority of its Chairman, is involved with political parties to the extent that they each nominate a member, but otherwise it has traditional NDPB form and the very low costs and low staffing level associated with this model.

3 Audit Commission

3.1.1 Relevance

- 3.1.2 The Audit Commission promotes the best use of public money by ensuring the proper stewardship of public finances and by helping those responsible for public services to achieve economy, efficiency and effectiveness, on behalf of the communities they serve.

The Commission was established in 1983 to appoint and regulate the external auditors of local authorities in England and Wales. In 1990, its role was extended to include the NHS. In April 2000, the Commission was given additional responsibility for carrying out best value inspections of local government services. During 2002 it introduced the Comprehensive Performance Assessment (CPA). In 2003, it took on responsibility for inspecting housing associations. Today its remit covers more than 15,000 bodies which between them spend nearly £125 billion of public money each year. The Commission operates independently and its findings and recommendations are communicated through a wide range of publications and events.

The Audit Commission is firmly committed to providing value for money in its own activities. Through Strategic Regulation it will focus activity where the need for improvement is greatest.

- 3.1.3 These responsibilities parallel to some degree the Statistics Commission's responsibilities although the Audit Commission is a much larger body with a distinct audit function which provides most of its income.

3.2 Establishment, Staffing and Budget

- 3.2.1 The Commission was established in 1983. It has 2,500 staff (2,000 in the field, with the rest engaged in research, policy, executive and support functions).

3.3 Membership of the Commission

- 3.3.1 Following recent appointments the Audit Commission currently has 15 Commissioners. The Commissioners are appointed for three year terms by the Deputy Prime Minister. The appointments are paid, are staggered and re-appointments can, and often are, made.

3.4 Funding

- 3.4.1 The Commission has income of some £200 million of which £25 million is from grants; the remainder is mainly from user fees or other charges.

3.5 Accountability

- 3.5.1. The Commission is a non-departmental public body. Its sponsor departments are the Office of the Deputy Prime Minister, the Department of Health and the National Assembly for Wales. It has no structured line of accountability to Parliament, although it submits an annual report to the Secretary of State for Transport, Local Government and the Regions for laying before Parliament and the National Assembly for Wales. It was examined three years ago by the Environment Select Committee, and four years ago by the normal quinquennial review.

3.6 Main Tasks of the Commission

3.6.1 Under the Audit Commission Act 1998 the Commission is responsible for the external audit of local authorities and national health service bodies in England and Wales. Under the Local Government Act 1999 the Commission's responsibilities include the audit of local authorities best value performance plans and the inspection of authorities compliance with the requirements of the Act.

3.6.2 The Commission has eight main duties:

- (a) To appoint auditors;
- (b) To prepare and review Codes of Audit Practice;
- (c) To set scales of audit and inspection fees;
- (d) To make arrangements for certifying claims for grants, subsidies or other returns received by an audited body;
- (e) To undertake or promote studies that aim to improve economy, efficiency and effectiveness in the provision of services that improve financial and other management;
- (f) To under or promote studies on the impact of the operation of any statutory provision, direction or guidance on august bodies;
- (g) To direct relevant bodies to publish performance information that will facilitate comparison;
- (h) If directed by the Secretary of State to carry out an inspection of a specified authority's best value compliance.

3.6.3 The Acts provide extra powers including the ability to direct an auditor to hold an extraordinary audit or to require any audited body to provide specified information.

3.6.4 The Commission's annual report to the Secretary of State incorporates a review of the past year and a preview of future developments.

3.7 The Audit Commission's Approach

3.7.1 The Audit Commission is a relatively well established body which has struck a shrewd balance between its assurance and best practice responsibilities.

3.7.2 Although the assurance role of District Auditors is always present and from time to time can become high profile, whether in Clay Cross or Westminster City Council, auditors have personal statutory responsibilities, but have sought to use these powers proportionately and when other approaches have not achieved results.

3.7.3 Another aspect of the Audit Commission's work has been national studies which have set out progress and best practice to stimulate further local improvement.

3.7.4 More recently the Comprehensive Performance Assessment (CPA) has combined the service judgements of other inspectorates (e.g. SSI, BFI, OFSTED) with those of the Commission's Corporate Assessment to produce a five point scale (from poor to excellent) for the 150 largest councils. This has formed a base line form which improvement is now being measured. This approach has proved acceptable to the local authority stakeholders.

3.7.5 The Commission is now working closely with CHAI which has the lead role in delivering the new NHS agenda.

3.7.6 The Commission is independent, evidence based and places a premium on effective consultation. It sees change as being essentially owned by local management, but on occasions does not shrink from use of formal powers.

3.8 The approach of the Audit Commission

3.8.1 The Commission is a relatively long standing body operating in difficult and sometimes contentious terrain. The role of the Audit Commission in providing assurance about the proper use of public money is therefore vital, but no longer sufficient to meet public expectations. Assurance is a continuing necessity, but improvement must in future be at the heart of all its work. Strategic Regulation is central to the Commission's Strategy. This will maximise impact on improving public services for the benefit of those who use them. The Commission will assess whether they are effectively managed and give value for money for taxpayers. It will challenge the bureaucracy that surrounds public services. And it will scrutinise its own activities with equal rigour to ensure it delivers value for money regulation by eliminating unnecessary activities.

3.8.2 It is very aware that its actions, together with those of the plethora of other inspectorates which have been established, should be seen to be proportionate and that it should be strive to reduce the body of regulation.

3.8.3 All the member of the Commission are appointed by the Secretary of State in consultation with other departments. Some in turn are nominated by, for example, the Local Government Association and "come with their political labels".

3.8.4 The Commission is widely seen as independent and authoritative. It is notable that the Commission's system of funding largely from user fees is also thought to give it some independence from departmental funding processes.

3.8.5 Unlike, for example, the Electoral Commission the Audit Commission does not have a very structured link with Parliament. The National Audit Office, for example, audits the overall National Health Service accounts. The NAO also audits the Audit Commission's accounts. Liaison with Select Committee occurs on relevant areas of public administration but the level of detailed interaction with Parliament is quite limited and tends to follow the Commission's quinquennial review.

3.8.6 The Audit Commission has strong links, however, with its stakeholder bodies, e.g. the Local Government Association, the Society of Local Authority Chief Executives, the NHS Confederation, the Chartered Institute of Public Finance and Accountancy and other Inspectorates.

3.8.7 In local government there are linkages through the Local Services Inspectorate Forum to ensure a shared focus and more co-ordinated approaches.

3.8.8 The Commission believes that the way in which the media respects its work is highly important: they amount to another stakeholder in helping secure that messages get through and are acted upon.

3.9 Observations which are relevant to the Statistics Commission

3.9.1 A former Chairman of the Commission is attributed to the very clear guidance that the Commission's work should always be excellent.

3.9.2 When the Commission is mentioned on the *Today Programme* it is typically introduced as "the independent watchdog", which reflects the emphasis on independence and authority by the Commission.

- 3.9.3 Both these two distillations may be seen as useful approaches by the Statistics Commission. The reputation for excellent work, an ability to be quick on its feet in identifying issues ahead of the pack, and a judicious and sober approach all seem valuable models. Promoting a “catch line” which makes sense to the media and gives a quick snapshot to the public is also obviously important.
- 3.9.4 Other elements of the *modus operandi* of the Commission provide some valuable suggestions. It tries to be pro-active in the public interest. It is very conscious of the need to add value through its work, and not to be captured by any single or group of stakeholders.
- 3.9.5 It seeks to be judicious, evidence-based in its approach, and to avoid campaigning, grandstanding, or having an excessive compliance cost. It attaches great importance to the credibility of its officials.
- 3.9.6 It has examined international comparisons including one conducted by the Audit Office of Canada and its thoughts that their approach to the measurement of success is useful. The Canadian authority thought this could be achieved against 3 tests:
- (a) Whether its work programmes were completed in a timely and efficient way.
 - (b) What was the intermediate impact, i.e. the extent to which the Commission’s work was noted and used in Parliament and opinion formers;
 - (c) The results in terms of legislative change or change in public policy resulting from the Commission’s activities.

There may be parallel or overlapping issues between the Audit Commission and the Statistics Commission. The examples of reliability of publicly available performance data arose in discussion. The Audit Commission would be interested to explore co-operation further.

4. **INFORMATION COMMISSIONER**

4.1. **Relevance**

4.1.1. The Information Commissioner oversees the Data Protection Act 1998 and the Freedom of Information Act 2000. His duties include the promotion of good information handling and the encouragement of Codes of Practice for data controllers. The Commissioner therefore has both policing and best practice responsibilities.

4.2. **Establishment, Staffing and Budget**

4.2.1. The second Commissioner Elizabeth France was appointed in September 1994 and Richard Thomas became Commissioner on 2 December 2002. The Commissioner has a budget of about £9 million.

4.3. **Appointment of the Commissioner**

4.3.1. The Commissioner is appointed by the Queen by letters patent and a resolution of both Houses of Parliament would be required to remove him from office. The Commissioner is appointed for a five year term with provision, normally, for up to one reappointment.

4.4. **Funding**

4.4.1. The Department for Constitutional Affairs, the sponsor department, sets the budget for the work of the Information Commissioner although his salary is funded from the consolidated fund separately. The Commissioner appoints his staff who are not civil servants.

4.5. **Accountability**

4.5.1. The Commissioner reports to Parliament annually but does not have a designated select Committee regularly monitoring his work. There is also a right to lay a special report before Parliament. The Commissioner has a wide range of responsibilities under data protection and freedom of information laws including some 35 particular tasks.

4.5.2. The previous Commissioner's 2002 Annual Report said that "The office is not a typical non-departmental public body. Such bodies usually have a relationship with Ministers which is based on the delegation of Ministerial powers. The Commissioner is an independent body created by statute who reports directly to Parliament".

4.5.3. A central task is the maintenance of a data protection register and the handling of complaints, or strictly requests for assessment, of matters arising under it. A second main limb is to enforce the provisions of the Freedom of Information Act which come into full force in January 2005.

4.5.4. The previous Commissioner developed a Mission Statement, currently under review:

"We shall develop respect for the private lives of individuals and encourage the openness and accountability of public authorities:

- by promoting good information handling practice and enforcing data protection and freedom of information legislation; and
- by seeking to influence national and international thinking on privacy and on information access issues."

4.6. The Information Commissioner's Approach

- 4.6.1. The Information Commissioner has a stronger European and international dimension than many UK watchdogs. The Data Protection Act 1998 is based on a European Directive which requires national authorities to establish an independent information commissioner or equivalent: there is therefore over-arching law which protects the position of the Commissioner and which governs the nature of UK legislation.
- 4.6.2. The successive Commissioners believe that the Directive provides an enforceable framework of obligations designed to ensure the right to respect for private life and that understanding the importance of that fundamental right is key to the successful development of the use of personal information.
- 4.6.3. The mechanical tasks of operating registers and policing access to information are therefore conducted in the light of this philosophy.
- 4.6.4. Some 12,000 data protection cases are received annually by the Commissioner and the Commissioner is very aware of the need not to allow case work to drown policy work, and anticipates changes in 2004 to reinforce that approach.
- 4.6.5. Indeed, the overall approach of the Commissioner is to be both proactive in shaping and influencing debate and policy, and communicative, in explaining both to citizens and data users the nature of their rights and obligations and the reasons for these.
- 4.6.6. Following the events of 11 September the Commissioner is also closely involved in discussions involving anti terror initiatives and procedures, and especially in balancing the authorities' need for information with the privacy rights of citizens.
- 4.6.7. An important aspect of this work is the question of entitlement or identity cards, the use of electoral registration information and other initiatives.
- 4.6.8. In the same way the Commissioner is active in matters concerning electronic communications and the internet, in telecommunications and in the work of the Council of Europe, the European Commission, Europol and other international activities. There are networks of European and international Data Protection Commissioners which have working groups on substantive policy issues.
- 4.6.9. The Commissioner produces "self-service" products including legal guidance, on-line seminars, video training and Codes of Practice.
- 4.6.10. The Commissioner is based in Cheshire but has now established a presence in the devolved jurisdictions and is about to open a small London office.

4.7. Observations on the Information Commissioner

- 4.7.1. The Information Commissioner has a rather unique position in that he regulates the whole of the public sector, in the sense of policing freedom of information, as well as data protection. Large sections of the private sector are also regulated under data protection legislation.
- 4.7.2. The Commissioner is unusual, also, in that he is a single public officer at a time when current practice has moved towards Board models.

- 4.7.3. The Commissioner has therefore reconstituted the internal Management Board of his office and is turning it into a body which will have a strategic role, forward look function and will meet five or six times a year with five Executives and three non-executive members. Non-executive members will shortly be appointed after a full selection process.
- 4.7.4. The Commissioner has also developed a new annual business plan which was launched alongside the Commissioner's Annual Report on 16 July. The documents had a new focus on strategic aims and objectives and a two day strategy retreat for senior staff has been introduced. A longer term Corporate Plan will be launched in early 2004.
- 4.7.5. The Information Commissioner's approach is to be proactive and communicative and he sees himself as a combination of regulator, ombudsman and educator.
- 4.7.6. It seems likely that the Commissioner will begin to make a wider use of his statutory powers, which are rather fragmented. For example it seems possible that he will make use of his power to issue a special report to Parliament on a topical issue and this is likely to be received and responded to by a Select Committee.
- 4.7.7. In rather the same way as the Audit Commission, he has an audit power which can only be exercised by consent of the relevant body. A public body, however, would be unlikely to resist an audit if proposed.

4.8. **Observations which are relevant to the Statistics Commission**

- 4.8.1. The European Directive which created the modern system of data protection raises again the question of comparative work by the Statistics Commission. Is there a network of its equivalents within the European Union? Further, would European legislation be appropriate at some point to entrench statistical best practice? It might be worthwhile for the Commission to examine this in the context of potential new UK legislation.
- 4.8.2. On the subject of UK legislation the rather fragmented nature of the Information Commissioner's powers does call to mind the fact that it might be possible to incorporate relatively short provisions establishing the Statistics Commission as a statutory body in other Treasury legislation – it may not require an Act of Parliament all to itself.
- 4.8.3. In considering the contents of such legislation the power to submit a special report to Parliament might usefully be included together with audit powers, procedures for compelling provision of information, attendances of witnesses and so on.
- 4.8.4. If the promotion of good practice in terms of data protection and freedom of information is at the heart of the Information Commissioner's work, the classification of public spending might well be seen to be at the heart of Statistics Commission's work. It could provide a unique focus for its activity.
- 4.8.5. In terms of the maintenance of professional standards in Government statistics, auditing the Code of Practice might benefit from some particular statutory responsibilities to Parliament.

A number of the Information Commissioner's decisions are subject to appeal to the Information Tribunal. The Statistics Commission might wish to consider whether any of its functions now or in the future ought to be subject to appeal

5. ELECTORAL COMMISSION

5.1. Relevance

5.1.1. The Electoral Commission is a statutory body with a strong reporting line to Parliament which has responsibility for monitoring elections and regulating party political funding and a role to review the administration and law of elections and encourage best practice in this area and that of party funding. It therefore has rather similar responsibilities to the two main limbs of the Statistics Commission's responsibilities.

5.2. Establishment, Staffing and Budget

5.2.1. The Commission was established on 30 November 2000. Staff numbers increased from 25 at 1 April 2001 to 36 at 31 March 2002 and 91 at 31 March 2003. There will be around 63 planned recruitments in 2003-4. The net budget is around £26m.

5.3. Membership of the Commission

5.3.1. The Electoral Commission has six Commissioners who were appointed by Royal Warrant after a resolution passed by the House of Commons. The initial Commission members were appointed in January 2001 for periods of 4-5 years and 6 years for the Chairman. The Commissioners are paid. The statute omitted to provide any process for appointment or re-appointment and the Chairman is very conscious that this issue must be addressed.

5.4. Funding

5.4.1. The Commission is funded by Parliament in the same way as the National Audit Office.

5.5. Accountability

5.5.1. The Commission reports to a Speaker's Committee which includes senior members of the House of Commons. Details are at Schedule 4. The Commission is required to publish and lay before Parliament an annual report and accounts.

5.6. Main Tasks of the Commission

5.6.1. The corporate purpose of the Commission is "to foster public confidence and participation in the democratic process within the United Kingdom".

5.6.2. The Commission has six main aims:

- i) to promote and maintain openness and transparency in the financial affairs of political parties and others involved in elections;
- ii) to review the administration and law of elections and encourage best practice;
- iii) to encourage greater participation in, and increase understanding of, the democratic process;
- iv) to ensure that the Commission is able to undertake the effective conduct of a referendum;
- v) to provide for electoral equality in each local authority area of England while also reflecting community identity and interest, and undertake such reviews of local authority areas as the Secretary of State may request or direct;
- vi) to carry out the Commission's statutory functions impartially, using resources efficiently, effectively and economically.

- 5.6.3. The aims are set out in the Commission's Five Year Plan approved by the Speaker's Committee in October 2001. A Corporate Plan for 2002-3 to 2006-7 was approved by the Speaker's Committee in February 2002. A Corporate Plan for 2003-4 to 2007-8 was approved on 12 March 2003.
- 5.6.4. In summary, the Electoral Commission was established by Parliament as an independent body to oversee new controls on donations to and campaign spending by political parties and others. It also has a remit to keep under review electoral law and practice, to promote public awareness of electoral and democratic systems and to review local authority electoral arrangements.

5.7. **The Electoral Commission's Approach**

- 5.7.1. The Electoral Commission is a fast growing body with high profile and potentially contentious responsibilities.
- 5.7.2. The Commission has provided information on political funding through a vigorous policy of openness and transparency. Contributions to political parties are now visible on the Commission's comprehensive and effective website.
- 5.7.3. The Commission has set itself comprehensive corporate plans and devotes much time to effective strategic analysis. It reviews and revises its aims from time to time and in its Corporate Plan sets targets, performance indicators and service standards for its main objectives. These targets appear to emulate a service delivery agreement or public service agreement but in this case the responsibility is to the Speakers Committee rather than to a Department.
- 5.7.4. The Commission's accounts are audited by the National Audit Office which is required by the legislation to carry out annual examinations of the "economy efficiency and effectiveness with which the Commission have used their resources". The Commission is developing policy evaluation plans in line with Treasury and Cabinet Office guidelines.

5.8. **Observations on the Electoral Commission**

- The Commission is a new body and it benefits mightily from the fact that it had been set up in late 2000/early 2001 and was newly established at a time when a General Election was about to appear on which it would be obliged to report. This gave it a powerful launch pad and an opportunity to establish itself in the public domain, together of course with a responsibility to make sure that it produced a valuable report.
- 5.8.1. The Electoral Commission has considered it very important to establish credibility amongst its stakeholders but most especially amongst those who use it. Clearly this involved voters, political parties, candidates and their professional teams but also election administrators in local authorities. Special efforts have been made to demonstrate that the Commission is a voice not only for voters but also for professionals involved in elections and local government administrators.
- 5.8.2. The Commission regards itself as the voice of otherwise voiceless ordinary voters and it has very consciously attempted to identify techniques by which it could be seen to represent them. The Commission has used questionnaires and sent Commissioners out into the field with staff to learn what went on on the ground. Commissioners have worked with staff in pulling together the resulting reports.
- 5.8.3. The Commission has benefited from the fact that the Chairman is full time. It means that there is always a member whose mind is completely focused on the agenda and

operation of the Commission without the distraction of other important tasks.

5.8.4. The Electoral Commission believes it important that every policy area, report and inquiry is chaired by a Commissioner, meaning that its work is lead by Commissioners rather than by staff.

5.8.5. Bonding between the Commissioners is achieved both by formal and informal means. The Commission has a monthly meeting with its formal agenda but meets fortnightly in between these meetings without staff being present. Although occasionally these did attract agenda items when deadlines would otherwise be missed for most of the year they gave a powerful opportunity for the Commission to talk among itself directly. Commissioners have a private dinner before the monthly meeting which helps them steer the Commission's work and the Chairman believes in direct email, telephone and other contacts with Commissioners.

5.9. **Observations which are relevant for the Statistics Commission**

5.9.1. The Electoral Commission offers a number of valuable parallels for the Statistics Commission.

5.9.2. The strong form of parliamentary accountability results from the particular tasks but provides a model which is different from and possibly superior to the usual lines of accountability to Departments and Select Committees. This model may provide a precedent for areas of particular sensitivity such as maintaining statistical integrity.

5.9.3. It is unfortunate that the legislation overlooked re-appointment arrangements for Commissioners but the relatively long terms of Commission members are also noteworthy – the Chairman appointed for six years and other Commission members tending to be appointed for five year terms. The Act envisages appointments for up to ten years.

5.9.4. The strong links to Parliament help to strengthen the perceived independence of the Electoral Commission. There is no reserve power for a Minister to direct its work. There is a Parliamentary Parties Panel to provide a forum for discussion between political parties and the Commission but the Speaker's Committee is the key focus for accountability and merits careful consideration as a model. Details of the Speaker's Committee appear at Schedule 4.

5.9.5. In consideration of the potential development of a statutory regime for the Statistics Commission the strong parliamentary links of the Electoral Commission may be worth bearing in mind.

5.9.6. In the same way the effective independence of its members and the lack of reserve powers are important elements in its design.

5.9.7. In operational terms the Electoral Commission believes that it has prospered and achieved relatively high public visibility because in part of the good fortune that its establishment coincided with an important General Election on which to report.

5.9.8. It also believes that it gains strength from its representative role, fully engaging stakeholders. It is a strong exponent of the desirability of a full time Chairman.

It has also achieved a significant scale. The question arises whether it might be desirable for the Statistics Commission to achieve an increase in the scale of its activities, perhaps by identifying relevant functions currently located elsewhere which could with advantage operate from within the Statistics Commission.

6. FINANCIAL REPORTING COUNCIL

6.1. Relevance

6.1.1. The Financial Reporting Council is an independent, private sector body responsible for two operational bodies, the Accounting Standards Board which makes, amends and withdraws accounting standards and the Financial Reporting Review Panel which inquires into apparent departures from the Companies Act accounting requirements by large companies and when necessary seeks remedial action. The FRC is thus a standard- setting and policing body; it is included as a comparator because it is in the private rather than governmental arena.

6.2. Establishment, Staffing and Budget

6.2.1. The Council is established as a company limited by guarantee. It has 14 staff members. It has a budget of some £2.7 million received from the accountancy profession, City bodies and some Government departments. It has a separate legal costs fund to enable it to secure compliance with the Companies Act.

6.3. Membership of the FRC, ASB and FRRP

6.3.1. The FRC has around 30 members and four observers including the Controller and Auditor General. The ASB has a full time Chairman and Technical Director, eight part-time members and three observers and the Financial Reporting Review Panel has 21 members. Appointments to the ASB and FRRP are made by an Appointments Committee comprising the Chairman, Deputy Chairmen and three other members of the Council.

6.4. Funding

6.4.1. The FRC is funded by the Consultative Committee of Accountancy Bodies, the Department of Trade and Industry, the Financial Services Authority, Bank of England, Association of British Insurers, the National Association Pension Funds, Association of Investment Trust Companies and Association of Unit Trusts and Investment Funds.

6.5. Accountability

6.5.1. Although the FRC is independent its role is being expanded to subsume that of the Accountancy Foundation, the self-regulatory body for the accounting profession. This work is being led by the Department of Trade & Industry which leads an Implementation Steering Group of the Chairmen of the FRC, the Accounting Foundation and the Institute of Chartered Accountants of England & Wales.

6.6. Main Tasks of the FRC

6.6.1. The Financial Reporting Council's role is to promote good financial reporting and to act as the overarching and facilitating body for its two operational bodies, the Accounting Standards Board and the Financial Reporting Review Panel.

6.6.2. The Accounting Standards Board makes, amends and withdraws accounting standards. It is assisted by four committees – the Urgent Issues Task Force, the Financial Sector and Other Special Industries Committee, the Public Sector and Not-for-Profit Committee and the Committee on Accounting for Smaller Entities.

- 6.6.3. The Financial Reporting Review Panel inquires into apparent departures from the accounting requirements of the Companies Act 1985 in the annual accounts of large companies and where necessary seeks remedial action, being empowered to apply to the Court for that purpose.
- 6.6.4. Following the Enron and related corporate problems the FRC's role has been strengthened, primarily still in a voluntary framework.
- 6.6.5. The Financial Services Authority, a statutory regulator, will help the Financial Reporting Review Panel on enforcement – especially by identifying high risk cases that most merit investigation - through a Memorandum of Understanding to clarify the precise roles and responsibilities of the two organisations. This is an intriguing case of a big regulator helping a smaller one.
- 6.6.6. The Financial Reporting Council will assume the functions of the Accountancy Foundation. That will create, according to the Secretary of State for Trade & Industry, a unified, independent UK regulator with three clear roles: setting accountant and audit standards; proactively enforcing and monitoring them; and overseeing the self-regulatory professional bodies.
- 6.6.7. The design of the new integrated system is still under way.
- 6.6.8. The Secretary of State said in her January statement that “it is vital for the new structure to have clarity of accountability and responsibility together with the appropriate powers to operate effectively in the public interest. There is a strong case for statutory underpinning to make the new body work. We will consider that further and report our conclusions to the House”.

6.7. Observations which are relevant to the work of the Statistics Commission.

- 6.7.1. The Financial Reporting Council was not able to discuss its work within the time available for this study. A review of its methods and structure raises a number of points of interest.
- 6.7.2. Although it is a private sector body it has a specific limb charged with securing the enforcement of financial reporting aspects of the Companies Acts, and a special legal fund to allow it to bring such actions.
- 6.7.3. It has also adopted an interesting operating structure in which the Accounting Standards Board operates with a shared staff with the FRC but operationally is to a considerable degree distinct. The FRC provides an umbrella and overarching body.
- 6.7.4. The responsibilities of the FRC are currently high profile, as it seeks to come to final conclusions on the corporate governance issues arising from the Higgs report. The additional responsibilities which it will take over from the Accountancy Foundation for regulation of the accountancy profession are a tribute to its perceived effectiveness.
- 6.7.5. The fact that ministers considering that there is a strong case for statutory underpinning shows the limits of self-regulation and is a significant aspect of relevance to the Statistics Commission.
- 6.7.6. The fact that the FRC has had, in Sir Sydney Lipworth and Sir Bryan Nicholson, two very effective and highly regarded Chairmen may account for the fact that it has until now not been felt to need statutory underpinning notwithstanding its heavy responsibilities. A similar approach may be visible in the Committee on Standards in Public Life. Yet there are clear signs, in the move to board systems for regulators and as watchdogs achieve more powers, that setting out powers, functions and structure by statute may be becoming the norm.

7. CROSS-CUTTING ISSUES

7.1. Public Bodies

- 7.1.1. When the House of Commons Public Administration Select Committee recently examined appointments to public bodies it was surprised at the plethora of different types of public bodies which exist.
- 7.1.2. It recommended a fundamental review of all public bodies attached to central Government and the drawing up of a map of them. "If necessary, the definition of non-departmental public bodies should be revised according to precise, comprehensive and transparent criteria to encompass as far as practical all relevant public bodies. This comprehensive review should be repeated at regular intervals" said the Committee.
- 7.1.3. It also recommended that all public bodies "whether executive or advisory, statutory, "other" or "private", "ad-hoc" or "ongoing", within the remit of central Government, should be placed on the public record in Public Bodies and on departmental websites, with information on their roles, accountability and appointment arrangements".
- 7.1.4. The Committee's suggestions are warmly to be supported. Currently there is a wide variety of approach to questions of structure, accountability and appointment.
- 7.1.5. The Constitution Unit's study is another example of the wish to map watchdogs. It categorises the organisations in this report in the following way:
- a) The **Statistics Commission** itself is categorised as among "*other non-statutory constitutional watchdogs*" and the authors observe that "these bodies have a non-statutory nature which tends to be indicative of action by the Executive without much thought as to appropriate constitutional architecture. They are not subject to the jurisdiction of the Parliamentary Ombudsmen or the Controller and Auditor General, apart from the Statistics Commission".
 - b) The **Committee on Standards in Public Life** is listed as a "*non-statutory Nolan watchdog*". The authors note that such bodies, including the Commissioner for Public Appointments, "were set up following concerns about the standards of conduct in public life in the early 1990's. As mainly advisory NDPB's they do not come within the jurisdiction of the Parliamentary Ombudsmen or the C&AG".
 - c) The **Audit Commission** and the **Information Commissioner** are both categorised as *statutory constitutional watchdogs*. The authors note that "this category encompasses those bodies which have been established under statute with some constitutional safeguards, such as restrictions on dismissal, or the right to report to Parliament, but do not have enough characteristics to be described as Officers of Parliament. Some of the bodies in this category have a reporting relationship to Parliament but others have none at all".
 - d) The **Electoral Commission** is categorised as "*almost an Officer of Parliament*". The authors note that this category comprises "external bodies which have key characteristics of the Officer of Parliament model, without having been accorded the title in legislation or by convention. The only body which qualifies is the Electoral Commission, whose role in supervising elections is usually expected to have constitutional guarantees of independence".
- 7.1.6. It is clear from this report, as well as the Select Committee and Constitution Unit reports, that there is a confusing plethora of different forms and accountability lines for public bodies generally and watchdogs in particular. This report does, however, show some emerging trends, which may be re-enforced if the Select Committee and Constitution Unit

recommendations are acted upon.

7.2. **Statutory or Non-Statutory?**

- 7.2.1. Although older watchdogs tended not to be established by statute the practice today tilts heavily towards a statutory framework.
- 7.2.2. Of the bodies examined in this report the Audit Commission, Information Commissioner and the Electoral Commission all operate under statutory powers. In this they match, of course, the economic regulators.
- 7.2.3. Statute has many advantages. It provides a clear definition of and limit to powers. It facilitates scrutiny and judicial review. It lends permanence and authority to an organisation. It entrenches that organisation in the body politic, in the corpus of public administration. It can confer a wide range of legal powers which assist in an organisations work.
- 7.2.4. Are there negatives to set against these advantages? One which arose in discussion is the question as to whether statutory powers are needed to address a particular problem – for example, to be able to compel the attendance of witnesses – or simply to provide a structure or framework. The implication was that providing a framework alone might not justify the effort involved. In my opinion, however, a statutory framework is beneficial in structural terms. It is also consistent with formality of procedure, which is also today the norm and desirable in an increasingly evidence-based and rules-based culture.
- 7.2.5. Another potential negative is that statutory powers, being strictly defined, might fail to cover particular situations. In practice, however, most watchdogs are adept at using their statutory powers as a base. In some cases, my discussions revealed, an organisation will prefer to use its statutory powers only as a last resort. In the real world they do not need to be deployed – the threat of their use is sufficient to promote improvements. Equally most statutory watchdogs are able to take steps which achieve similar results to the actual deployment of their statutory powers – such as, for example, issuing special reports, writing to Ministers or Select Committee or otherwise displaying their concerns in public.
- 7.2.6. Of the bodies examined in this report which do not currently have statutory status there are no current plans for the Committee on Standards in Public Life to be established under statute. The Public Administration Select Committee has, however, recommended that the Government consult on the establishment of a single Public Appointments Commission to take over public appointments to NDPB's, Public Corporations and other public bodies from Government departments. It recommends that this new Appointments Commission should be a statutory body.
- 7.2.7. It has also recommended “that the Office of the Commissioner for Public Appointments should be financed through the Parliamentary Vote with the Commissioner approved by Parliament and reporting to it, and that the Office should be housed and staffed separately from the executive.”
- 7.2.8. The Financial Reporting Council has been included in this report as a private sector analogue. It is noteworthy that it has recently taken over the regulation of the accountancy profession after discussions facilitated by the Department of Trade & Industry and that the Department is currently considering whether the new arrangements both for financial reporting and for the regulation of accountants ought not to have statutory underpinning.

7.2.9. It is becoming clear that in the modern system watchdogs increasingly tend to be established under statute and to have statutory powers.

7.3. **Sponsor Departments And Links To Parliament**

7.3.1. If there is a clear trend towards statutes, another trend that is becoming visible is towards a more structured accountability of watchdogs to Parliament.

7.3.2. This is in its early stages but the general perception that the Electoral Commission has handled a difficult and sensitive task with skill and effectiveness is partly responsible. It chimes with the earlier tradition of audit officers acting on behalf of Parliament and it is compared favourably with the difficulties which have afflicted posts which had been established by Parliament itself but without a statutory framework. The difficulties experienced by the former Parliamentary Commission for Standards, Mrs Elizabeth Filkin feature in many observer's minds.

7.3.3. In the formerly traditional model watchdogs had their main relationship with their sponsor departments and sometimes reported to Parliament through them. Although their accounting systems have usually been established to give the Secretary or Chief Executive the ability to run the budget and make staff appointments autonomously, this has been achieved against a background in which the NDPB in question was seen to be an extension of its mother department. Staff frequently serve on secondment and are established civil servants, making it more difficult to establish visible independence.

7.3.4. Watchdogs are usually accommodated, for example, by their sponsor department although increasingly in buildings where little clusters of non-core activities are located, rather than in the main departmental headquarters.

7.3.5. If the appointment of members of the NDPB concerned is also controlled by the sponsor department, which has over-arching financial control in addition, then public perception can see the autonomy of the body concerned as quite limited.

7.3.6. The Electoral Commission, although linked to the Department for Constitutional Affairs, has a number of interesting features. Its main reporting line is to Parliament rather than to the Department, and a Speakers Committee was set up especially to relate to it. This body has some explicitly nominated political appointees designed to achieve a balance among the parties in rather the same way that the Audit Commission has political appointees recommended by the Local Government Association to achieve the same purpose.

7.3.7. The Commission's members are appointed for relatively long terms for up to six years by Royal Warrant on an address from the House of Commons, although there was a lamentable oversight to make clear the arrangements for subsequent or reappointments of the Chairman and members.

7.3.8. Again, however, the result is a closer link with Parliament rather than with a Department.

7.3.9. It is notable that the Public Administration Select Committee clearly approves of this approach. Its report says: "there are a number of models for Parliamentary and public accountability to ensure high standards in this important area. For example, the Commissioners of the Electoral Commission are appointed only after consultations with leaders of all main parties and with the agreement of the Speaker. An address from the House is also required before any appointments are made. In addition, a Member representing the Commission answers questions in Parliament".

- 7.3.10. The supervision of elections is a matter closely and directly relevant to Parliament and not every watchdog will be as close to the House of Commons as is the Electoral Commission. Yet bodies exercising audit roles are traditionally in this position, and the example may be worth a further exploration.
- 7.3.11. The system adopted for the Electoral Commission also tends to overcome another difficulty which has become apparent in the course of this report. It is that the arrangements by which Parliament has its attention drawn to results of watchdog activity are somewhat erratic.
- 7.3.12. In some cases watchdogs are required to report to Parliament and even may have the right to make a special report to Parliament, as with the Information Commissioner. Yet it is not clear under statute how Parliament would respond to such a special report. More generally it is often not clear which Parliamentary Select Committee is primarily responsible for particular watchdogs. The Audit Commission's substantive reports may attract the attention of the Public Administration Committee whilst its organisation seems to be addressed by the Select Committee looking after the Department of Transport, Local Government and the Regions.
- 7.3.13. The problem is not necessarily simply one of statutory draftsmanship. Nor does it stem from shortcomings on the part of the watchdogs themselves. It is rather that Parliament has not tied itself down very closely. Some of the economic regulators complain that Select Committee interest in their work is sporadic, opportunistic and ill informed. The House of Lords Constitution Committee study may help Parliament itself to establish a surer idea of how it wants to secure such accountability. Parliament needs to establish whether it wishes to talk to regulators and watchdogs on a regular basis in a timetabled way, or when particular subject issues are live, or both. Well-advised workshops, however, will make sure that they keep in close touch with a Select Committee relevant to their work.
- 7.3.14. Increasing interest in accountability to Parliament provides an opportunity to establish more direct links than has been the norm in the past. With the model of the Electoral Commission attracting favourable opinions, the establishment by statute of other watchdogs may be expected to lean in the direction of stronger and more formalised links with Parliament. Given Parliament's own wish both to see this happen and uncertainty as to exactly how to secure its benefits there is an opportunity for those framing new statutes to be proactive and imaginative.

7.4. The Techniques of Watchdogs

- 7.4.1. The organisations examined in this report were selected because they had elements of the dual role which is detectable in the work of the Statistics Commission – policing and best practice. The issue was put in vivid terms by one interviewee who said that the Statistics Commission could be valuable to the world of national statistics in two capacities: as an ogre and as a support. In the ogre role it is an authoritative body policing the system whom none would wish to offend. In the support role it is the promoter and distributor of new ideas and best practice.
- 7.4.2. Most watchdogs have some mixture of these two responsibilities. The nature of the role can be illustrated very well by looking at the Committee on Standards in Public Life.
- 7.4.3. Unlike a number of other watchdogs it does not handle individual complaints directly but refers them to other ombudsmen or sources of redress. But it is the policeman of Westminster and Whitehall, in the sense that its recommendations to the Prime Minister

carry enormous weight and it would be a brave Cabinet Secretary who failed to act on its suggestions. It essentially sets the standards.

- 7.4.4. In its recent work the Committee's time has been spent perhaps in the ratio 9:1 on policing problems rather than on promoting best practice. It is now, however, devoting a considerable amount of time to original survey work carried out amongst the general public to identify standards which respondents would wish to see prevail in Westminster and Whitehall. A first reading of this work suggests that the public's views are different to and in some cases more demanding than the existing principles established by the Committee. As it seeks to shift the emphasis of its work towards updating standards in line with public expectations, and turning these expectations into enforceable rules, the Committee may provide a valuable model.
- 7.4.5. The policing role is not always popular with those under scrutiny. Local government was not initially favourable to the arrival of the Audit Commission and the extension of its responsibilities to the National Health Service did not generate a massively favourable immediate response from NHS managers. Yet the persistence of its work appears to have secured it a permanent place in the body politic. It is to be noted that its central audit role generates other advantages. It provides a continuing case load and an opportunity to keep closely in touch with local authorities generally, notwithstanding the fact that much routine audit work is subcontracted to the private sector. Audit fees also produce a regular source of income not directly controlled by Whitehall. Although this means that some cross-cutting projects have to be funded in a rather patchwork way it generates considerable continuity and operational independence and is a model to be borne in mind.
- 7.4.6. One element of the policing role of the Audit Commission is that it can proceed by comparison. It has moved to make this system explicit by ranking local authorities across a range of performance indicators and pulling together the work of other inspectorates into a single league table. This has perhaps surprisingly been accepted by local authorities, perhaps because they are very aware of the difference in performance between one authority and another.
- 7.4.7. The Statistics Commission is in a different position. It has one main regulatee. Such arrangements can lead either to regulatory capture or to high levels of tension and conflict. There are signs that ONS is uncomfortable with the concept of having a watchdog constantly on standby to criticise its work. This is an argument for a clear and widespread understanding of the Commission's role and powers. Yet it also argues for a very visible best practice role. The interest of the Office of National Statistics in a global role of statistics and international comparators may be a pointer to areas which the Commission might develop in its work.
- 7.4.8. There is clearly a benefit in focusing on the promotion of best practice in the sense of bringing world class developments in statistics to the attention of the public and profession. An approach by which the Commission takes the more social or representational areas and possibly engages in public debate at an earlier stage than the ONS, whilst the latter focuses to some degree on its own core data tasks, might offer a useful division of labour.
- 7.4.9. One former Chairman of the Audit Commission advised that the Commission's work should be excellent, its approach should be opportunistic but it should never be strident. This appears to make excellent sense. Authoritative high quality work is clearly a *sine qua non* for any highly regarded regulatory watchdog. Ensuring that the Statistics Commission's work is timely, effective and seen to be such is a key task. A measure of opportunism in the sense of seizing opportunities for action is legitimate. Lack of

stridency is also important. Many effective watchdogs or regulators are characterised by great patience and sensitivity to their regulatees. This does not prevent them from being effective. Very careful consultation, close following of clearly-set-down procedures and a patient and courteous approach can all be consistent with strongly principled decisions.

7.4.10. The Information Commissioner considers his role to be in part regulator, part ombudsman and part educator. These functions are all detectable within the Statistics Commission's remit.

CONCLUSIONS

- 7.5. The Statistics Commission's existing remit, set out in para 4.2.3 of the National Framework for Statistics, combines a 'policing' role and a 'best practice' role. In this respect it is similar to all of the comparator bodies.
- 7.6. The Commission is explicitly declared to be "independent of both ministers and the producers of national statistics."
- 7.7. The comparator bodies, as distinct from purely departmental advisory bodies, are also to varying degrees independent of the executive.
- 7.8. Of the four public sector comparator bodies, three are established by statute and equipped with a range of statutory powers. This is generally regarded as strengthening their independence.
- 7.9. The non-statutory body, the Committee on Standards in Public Life, does not see an immediate need for statutory status. But it is instructive that the fifth comparator, the Financial Reporting Council, may be given statutory 'underpinning' although to date it has been a self regulatory body organised by the private sector.
- 7.10. The tendency today is to establish watchdogs by statute and to equip them with statutory powers.
- 7.11. The benefits of statutory status include
 - A clear definition of and limit to functions
 - The facilitation of scrutiny and judicial review
 - Permanence
 - Authority
 - Entrenchment in the body politic
 - Conferment of legal powers
- 7.12. Although a body whose powers are largely advisory rather than determinative may consider it unnecessary to have statutory status to fulfil its role, the status is usually accompanied by formality of procedure, which is increasingly expected.
- 7.13. What happens if statutory powers fail to cover particular situations? This is not a fatal objection. The organisations examined in this report tend to operate through a series of methods in which the actual exercise of statutory powers may be a last resort.
- 7.14. If a tendency to establish watchdogs by statute is the first detectable trend among comparator organisations, a greater focus on watchdogs relationship to Parliament, rather than to the executive, is the second trend.
- 7.15. In the comparator organisations a variety of reporting patterns to parliament have been noted. Frequently the relationship between watchdogs and select committees is sporadic. More than one select committee may be involved. One may cover the sponsor Department, another deal with substantive issues. Regulators tend to seek a greater predictability and consistency in these relationships.

- 7.16. Parliament is showing signs of responding to this. The House of Lords Constitution Committee report into the accountability of regulators is likely to address the issue extensively, although it is too early to identify emerging conclusions.
- 7.17. More important there is a visible trend for Parliament and watchdogs to interact more directly, instead of through the executive.
- 7.18. The success of the Electoral Commission has generated interest in the special Speaker's Committee which supervises it. Schedule 4 sets out these arrangements.
- 7.19. The proposal this month by the Public Administration Select Committee that the Office of the Commissioner of Public Appointments should report directly to Parliament, rather than through the executive, is highly significant.
- 7.20. These developments remind us that Parliament is the natural interlocutor for watchdogs, especially those with an audit function or involving public finance, and that its scrutiny functions and the policing and best practice role of watchdogs have much in common. The Commission might consider whether this development should influence its own thinking when reporting upon the desirability of statistics legislation and the form that this might take.
- 7.21. The comparator organisations provide a rich source of information on both the policing and best practice roles which the Commission undertakes.
- 7.22. The Financial Reporting Council was included to provide a chance to look at a private sector self regulatory organisation with policing and best practice roles. In policing it has a fund to bring legal action to secure corporate compliance with accounting standards. In best practice it is responsible for the promulgation of corporate governance codes.
- 7.23. Its perceived success in these roles owes much to its recent chairmen, Sir Sydney Lipworth and Sir Bryan Nicholson, and their skills in balancing regulatory and market norms, and British and international perspectives. They have earned the trust of the corporate sector.
- 7.24. The result is that the FRC has been asked under the influence of government to take over the self regulation of the accountancy profession from the Accountancy Foundation, and ministers are assessing whether statutory underpinning is desirable.
- 7.25. The Committee on Standards in Public Life also owes much of its authority to its successive chairmen, Lord Nolan, Lord Neill and Sir Nigel Wicks. Like the Electoral Commission and the Audit Commission it shows a tendency towards explicit rather than implicit political balance in its membership.
- 7.26. Its primary achievements, however, show the effectiveness of the 'policing through reporting' technique if the reports are of high authority. Its nine reports have undoubtedly been definitive in establishing the rules which should apply to standards in public life. In this respect its tasks and methods very closely resemble those set out for the Statistics Commission in the Framework for National Statistics (Schedule 3).
- 7.27. The Statistics Commission is the 'guardian of statistical integrity', to quote the introduction to the Framework, in much the same way as the Committee is the guardian of standards in public life. Success will result from meeting a key requirement of the Framework, that the Commission 'establish itself as a source of high quality and independent advice on statistical issues'.

- 7.28. Although the Commission is, like the CSPL, an advisory non departmental public body, reporting in its case to the Chancellor rather than to the Prime Minister, there is a far greater stress on independence in its founding documents. It is explicitly declared by the Framework to be 'independent of both Ministers and the producers of National Statistics'. The CSPL's structural independence is not strong and its outstanding reputation results from the strength of its leadership and work rather than its institutional design. If it were being created today rather than in the 1990s it would probably have stronger structural independence built in. It would resemble the design of the Electoral Commission more than its existing shape.
- 7.29. The Commission should consider this perceived need for structural independence as a highly relevant element of comparison with the Committee. It should also note the Committee's recent shift of focus from policing to establishing, with the help of outreach to the public, a far clearer sense of public expectations of best practice.
- 7.30. The Commission might also note that the success and authority of the Committee have been achieved with a tiny staff and a small budget. Some may consider that it suggests that although the model of an advisory NDPB will come in for increasing criticism, as not sufficiently distinct from the executive, such a structure can lead to high productivity and good value.
- 7.31. I have commented earlier on the modern design of the Electoral Commission. It has a multiplicity of tasks in the policing of elections, the regulation of party political funding, and the promotion of best practice in both these areas. It is a new model of a commission reporting directly to the House of Commons.
- 7.32. It sees its strengths coming in part from its guaranteed workload of regular elections on which to report and also from a representational role including those who conduct and administer elections as well as the general public. The public's voice may have been insufficiently heard in the past by comparison with that of politicians and parties, the main 'users' of elections. It is also becoming a body of some scale. This raises the issue of whether the Statistics Commission is currently large enough to achieve maximum effect. It is much smaller than every comparator except the CSPL.
- 7.33. The Statistics Commission may wish to reflect that these roles are rather close to its own responsibilities in the Framework. It is tasked with producing 'independent, reliable and relevant advice' on National Statistics in rather the same way that the Electoral Commission reports on elections. It is charged with being able to assess the needs of users, and to draw upon the views of users and suppliers in commenting on the high level programme, in much the same way as the Electoral Commission seeks to fulfil a representative role. Strengthening outreach to the public, seen in both the CSPL and the Electoral Commission, is a relevant issue for the Statistics Commission.
- 7.34. The audit role is also close to the centre of the Statistics Commission's responsibilities. It is central to the tasks of the Audit Commission and the Information Commissioner, the two relatively well established statutory watchdogs identified as comparator bodies.
- 7.35. The Statistics Commission's current responsibilities include the obligation to 'comment on the quality assurance processes of National Statistics, as well as being able to carry out spot checks on departmental or other audits of National Statistics, to advise the National Statistician of any areas of concern that merit review and if necessary to carry out or commission its own audits'. These powers are close to the audit powers of the Audit Commission and the Information Commissioner, although they are obviously not in this case currently carried out under statutory authority.

- 7.36. The Audit Commission has built its authority upon its powers to appoint and regulate the external auditors of local authorities in England & Wales, in the NHS, and to carry out best value inspections of certain local authority services and functions. These functions closely parallel those of the Commission and may in some cases overlap where statistical indicators are to the fore, for example in concern over crime statistics or in NHS statistics.
- 7.37. The audit approach bears close comparison as a highly relevant model. The Commission might usefully explore this further. In addition, on the specific parallels and overlaps, I understand that the Audit Commission would be interested in holding discussions with the Commission to examine shared interests and approaches and the possibilities for co-operation. In the future it may also be worth considering whether any fee income might be derived from audit work.
- 7.38. Although the emphasis of the Audit Commission's work has moved slightly away from national studies of best practice towards local authority performance indicators, these studies have had profound effects in adding value to understanding of best practice across local government. The obligations of the Statistics Commission to give advice to ministers, to make advice available to the wider public, to advise Ministers of areas of widespread concern about the quality of official statistics and to comment on the Code of Practice and other procedures for statistical integrity as well as the arrangements for promoting professional standards across all official statistical work give it authority to produce best practice studies analogous to those of the Audit Commission.
- 7.39. The Audit Commission philosophy of excellent work, opportunism in identifying timely issues and a non-strident approach seems to have stood the test of time.
- 7.40. The Information Commissioner, in addition to functions enforcing data protection and freedom of information legislation, has a best practice role and maintains strong international and European connections. There is a clear analogy between the international aspects of these subject areas and of statistical work, and strengthening its role as an interpreter and importer of global best practice may be a valuable role for the Commission.
- 7.41. The enforcement decisions of the Information Commissioner are subject to appeal before the Information Tribunal. It is worth noting that any significant extension of the Commission's own 'policing' powers might require consideration of appropriate appeal systems.
- 7.42. The Information Commissioner is, I understand, likely to make the first use of a hitherto unutilised power to make a special report to Parliament on a topical policy issue. Such an explicit power might be a useful addition to the Commission's own armoury and be consistent with the shift towards closer links between watchdogs and Parliament noted earlier. The experience of the Information Commissioner may prove a useful benchmark
- 7.43. All the watchdogs examined seek to add value by identifying new standards and good practice, as well as checking and commenting upon their sectors and regulatees. The Commission may wish to identify some key areas on which it will focus in this regard. One of these may be the international and European dimension. The current difficulties at Eurostat may merit the Commission's attention and advice. More generally, study of the models of organisation of statistical work in the US administration and in other administrations, and deployment of new thinking and best practice from overseas, may prove another means for the Commission to add value and a 'division of labour' between the Commission's work and the tasks of the Office of National Statistics.

7.44. In conclusion, I have identified two key issues: the tendency to establish structures and powers by statute and the increasingly direct relationships between watchdogs and Parliament, as of prime significance. But as this report shows, there are valuable lessons to be learned and ideas to be debated arising from the *modus operandi* of all the comparator bodies. I look forward to discussing these further with the Commission.

Graham Mather

14 July 2003

Extracts from specification for a contract to assess and report on the roles of relevant comparators to the Statistics Commission, including regulators and related models.

Background: role of the Commission

1. The Statistics Commission was set up in June 2000 as part of the then new National Statistics arrangements designed to ensure that official statistics provided an accurate, up-to-date and meaningful description of the UK economy and society. Our role is to advise on the quality, quality assurance and priority-setting for National Statistics, and on the procedures designed to deliver statistical integrity, to help ensure National Statistics are trustworthy and responsive to public needs. We are independent both of Ministers and of the producers of National Statistics. We operate in a transparent way with the minutes of our meetings, correspondence and evidence we receive, and advice we give, all normally publicly available for scrutiny.
2. We do not collect or disseminate data ourselves, but act as a 'watchdog' for the way the Office for National Statistics and statisticians in other government departments do this.

Background to the task

3. The *Framework for National Statistics*, which directs and guides the development of National Statistics, tasked us to 'review the need for statistical legislation after two years and report back to the Minister for National Statistics and keep the legislative framework under review thereafter'. Some initial work to underpin this review was carried out towards the end of last year, including a consultation exercise to ensure the review focused on the right issues.
4. One of the issues for consideration in the context of statistics legislation is whether the Commission itself should be set on a statutory footing. In giving this early consideration, it has become clear that there are differing views on what the Commission's own role should be. We describe ourselves as a watchdog; others have suggested variously that our role should be regulatory, advisory or supervisory.

The task

5. In order properly to evaluate these alternatives, we need to be clear about exactly what they might involve. To that end, and building on work done to date, which will be made available to the successful bidder, we are now looking for someone to examine the roles of possible comparators to the Statistics Commission, including regulators and related models, and to provide a written report to us setting out the findings.

Output and timing

6. The report should cover the following:
 - (i) identification of appropriate comparators for each of the possible models identified;
 - (ii) assessment and exposition of the extent to which each comparator identified is relevant to consideration of the Commission's role;
 - (iii) the strengths and weaknesses of the comparators as models for the Commission;
 - (iv) any other relevant comments which might help us to assess the advantages and disadvantages of each model.

Extract from PROPOSAL TO THE STATISTICS COMMISSION

ASSESSING AND REPORTING ON THE ROLES OF RELEVANT COMPARATORS
INCLUDING REGULATORS AND RELATED BODIES

GRAHAM MATHER
PRESIDENT, EUROPEAN POLICY FORUM

1. Thank you for the opportunity to present a proposal for this project.
2. The independence, accountability and most effective organisation of regulatory and related bodies is a subject in which I have produced a number of studies. For the House of Commons Public Administration Select Committee I produced *Decision Making in Britain*, a paper on this theme, which was discussed extensively by the Committee in 2002. I was asked to convene a special seminar on *Governance in Regulation* jointly with the Cabinet Office's Better Regulation Task Force in February 2003. On 20 May I will be bringing leading regulatory bodies together with Lord Norton of Louth, Chairman of the House of Lords Constitution Committee, to examine issues related to its forthcoming report on the Accountability of Regulators. The European Policy Forum's work on regulatory issues has been widely acclaimed and the Forum is a trusted partner of leading regulators. Its study *The Future Regulation of Privatised Utilities*, published with the Hansard Society, was the subject of a special debate in the House of Lords and is believed to have set the shape of much current regulatory design.
3. The European Policy Forum's Regulatory Best Practice Group brings together Britain's leading economic and public policy regulators to explore current thinking and ideas. I am also a member of the Competition Appeal Tribunal having previously served on the Monopolies & Mergers Commission and the Competition Commission. I have advised regulatory bodies on strategic issues including the Independent Television Commission and the Financial Services Authority.
4. The Statistics Commission is at the sharp end of Britain's new regulators. It has explicit watchdog, quality control, best practice, representational and strategic advisory roles. It makes excellent sense for it to seek to ascertain which are possible comparator bodies and what lessons, insights and models can be gleaned from their experience.
5. I would propose to structure the project as follows.
6. An initial **identification** of the most useful comparators. At first sight a number of bodies have potential for examination including the Audit Commission, with watchdog, supervisory and advisory roles, the Electoral Commission, a new body both policing elections and advising on best practice in a number of related areas, the Committee on Standards in Public Life, which assesses public opinion and advises ministers and officials on emergent best practice, the Financial Reporting Council, which identifies financial and auditing best practices and others. The aim will be to conduct a wide trawl for relevant functional systems and experience.
7. **Analysis** of and **interviews** with members of and officials dealing with the most relevant organisations. This will be facilitated by my existing work in the field and contacts with the leading members of the bodies concerned. This phase would include a careful focus on approaches to interaction with statistics providers, including a brief look at European

and international models. The ways in which credibility has been established and maintained by bodies such as Eurostat, the US Bureau of Labor Statistics and the OECD would be relevant.

8. The preparation of a **report** to the Commission.
9. Following the submission of the report, its presentation to the Commission at a **seminar** which would allow its themes and findings to be examined to assist members of the Commission with their strategic thinking. I believe that a successful, fully engaged interactive discussion around the issues is highly important to extracting the maximum insights ideas and utility from the project for the Commission.
10. A **follow-up note** to round up the results of the seminar and to address any issues arising from the discussion.

The current terms of reference of those concerned with national statistics, as set out in the framework for National Statistics.

4 ROLES AND RESPONSIBILITIES

4.1 RESPONSIBILITIES OF MINISTERS

Minister for National Statistics

4.1.1 The Chancellor, as Minister for National Statistics, will be responsible for co-ordination across National Statistics.

4.1.2 The Minister for National Statistics will appoint the chairman and members of the Statistics Commission in accordance with the Code of Practice of the Commissioner for Public Appointments, and set resources for the Commission taking account of the Commission's views.

4.1.3 The Minister will, with the agreement of the Prime Minister and normally following open competition, appoint a National Statistician.

4.1.4 The Minister is responsible for maintenance and development of the co-ordinating structure for National Statistics in the UK, including the *Framework for National Statistics*. In doing so, the Minister will take account of the international context, including the UN fundamental principles for official statistics. The Minister will consult departmental Ministers, Ministers in the devolved administrations, the Statistics Commission and the National Statistician on proposed changes to the co-ordinating structure for National Statistics.

4.1.5 The Minister will produce and publish a co-ordinated response to the Statistics Commission's views and lay before Parliament the annual reports produced by the Commission and the National Statistician.

4.1.6 Where there is no clear departmental responsibility for cross-departmental statistical issues, the Minister is accountable to Parliament for such issues.

Departmental Ministers

4.1.7 Departmental Ministers, including the Minister responsible for ONS, Improving Quality and Relevance of National Statistics

- (a) are accountable for the statistical activities of their department and for the resources allocated to it, but will not normally become involved in the operational aspects of statistical work;
- (b) determine the policy and resources framework within which the statistical work in their Department operates and set performance targets for National Statistics;
- (c) decide the scope of National Statistics and departmental statistical programmes and resources having regard to the comments of the Statistics Commission on the proposed National Statistics programme; Improving Public Confidence in National Statistics;

- (d) contribute to the response co-ordinated by the Minister for National Statistics to views expressed by the Commission on departmental elements of the high level programme for National Statistics and on specific issues related to the statistical work in their departments;
- (e) ensure that their Department operates in accordance with this *Framework for National Statistics* and that National Statistics produced by their department are free from political interference;
- (f) ensure that their Head of Profession has the authority to maintain and demonstrate the integrity of their output in accordance with the National Statistics Code of Practice;
- (g) determine which individuals should have access to National Statistics produced by their Department in advance of their release, having first consulted the National Statistician;

Operate Efficiently

- (h) set challenging efficiency standards;
- (i) approve compliance plans and survey programmes after having assured themselves that the surveys included in the plans are justified and properly controlled;

Co-ordination across Government

- (j) co-ordinate responses to the Commission on cross-departmental statistical issues where their department has a clear responsibility for such co-ordination;
- (k) authorise Heads of Profession for statistics and their staff to make a full professional contribution to National Statistics activities and authorise access to all data within their control for statistical purposes across government subject to confidentiality considerations and statutory requirements; Devolution
- (l) within the context of the Memorandum of Understanding and the associated Statistics Concordat, provide the devolved administrations with as full and open as possible access to statistics, and will work to promote comparable statistics across the UK.

4.2 RESPONSIBILITIES OF THE STATISTICS COMMISSION

4.2.1 The Statistics Commission will play a key role in advising on the quality, quality assurance and priority setting for National Statistics, and on the procedures designed to deliver statistical integrity, to help ensure National Statistics are trustworthy and responsive to public needs. It will be independent of both Ministers and the producers of National Statistics. It will operate in a transparent way with the minutes of its meetings, correspondence and evidence it receives, and advice it gives, all normally being publicly available for scrutiny.

Appointment and terms

4.2.2 Members will be appointed by the Chancellor, as Minister for National Statistics, in accordance with the Code of Practice published by the Commissioner for Public Appointments. Appointment will take into account the need for the Commission to be independent, command authority, reflect the views of users and information providers of National Statistics and demonstrate a good understanding of statistical issues and the value of trustworthy statistics in democratic debate. The members need not be professional statisticians. Initial appointments will usually be for three years although terms of different lengths may be offered to ensure continuity. Any subsequent re-appointments may be offered in line with prevailing guidance issued by the Commissioner for Public Appointments.

Functions

4.2.3 The main function of the Statistics Commission is to give independent, reliable and relevant advice on National Statistics to Ministers and, by so doing, to provide an additional safeguard on the quality and integrity of National Statistics. In discharging its responsibilities, a key requirement will be to establish itself as a source of high quality and independent advice on statistical issues. Its advice will be made available to the wider public who must be able to rely on it as both considered and impartial.

4.2.4 The Statistics Commission is independent and, as such, has freedom in the way it operates, subject to the requirements laid down in this Framework Document and any framework document specific to the Commission. This includes flexibility to determine how it spends its resources, and how it selects and deploys its secretariat.

4.2.5 The Statistics Commission will ensure that satisfactory systems are in place for the effective delivery of its role in monitoring and advising on the quality and integrity of National Statistics. It will operate in a transparent and open way - making its operations publicly available for scrutiny. It will be responsible for the use of its resources. In conducting its work programme it will:

Improving Quality and Relevance of National Statistics

- (a) ensure that it is able to assess the needs of users;
- (b) consider and comment to Ministers on the high-level programme for National Statistics, drawing on the views of users and suppliers, taking account of:
 - (i) the resources available for National Statistics;
 - (ii) the compliance costs of providers of raw data; and
 - (iii) the management needs of organisations required to supply raw data. Proposals by the Commission for modification of the National Statistics programme will be accompanied by a compliance cost assessment;
- (c) advise Ministers of areas of widespread concern about the quality of official statistics, so that Ministers can take these considerations into account in determining priorities and making decisions about National Statistics;

Improving Public Confidence in National Statistics

- (d) comment on the application of the National Statistics Code of Practice and other procedures designed to promote statistical integrity;
- (e) comment, as necessary, on the arrangements for promoting professional standards across all official statistical work;

- (f) comment on the quality assurance processes of National Statistics, as well as being able to carry out spot checks on departmental or other audits of National Statistics, to advise the National Statistician of any areas of concern that merit review and if necessary to carry out or commission its own audits;
- (g) respond to ad hoc requests from the Minister for National Statistics for advice on any matters related to National Statistics subject to resource constraints;
- (h) review the need for statistical legislation after two years and report back to the Minister for National Statistics, and keep the legislative framework under review thereafter;

Operate Efficiently

- (i) take account of compliance costs of responding to statistical enquiries and the need to secure value for money when commenting on the proposed annual statistical work programme;

Co-ordination with Government

- (j) secure effective communication channels between the Commission and the Minister for National Statistics, and between the Commission and the National Statistician;

Devolution

- (k) advise Ministers on the effectiveness of the arrangements to ensure the consistency and co-ordination of statistics on a UK-wide basis following devolution, as appropriate, and establish working relationships with devolved administrations as it, and they, see fit.

Performance Reporting

- (l) submit an annual report to the Minister for National Statistics commenting on the annual report of the National Statistician and on the way the Commission has fulfilled its remit.

4.3 RESPONSIBILITIES OF THE NATIONAL STATISTICIAN

4.3.1 The National Statistician is the Head of National Statistics and Director of the Office for National Statistics. The National Statistician is the UK Government's chief professional adviser on statistical matters. Appointment and terms

4.3.2 The National Statistician will be appointed by the Minister for National Statistics, with the agreement of the Prime Minister, normally following open competition. He/she will hold office as a civil servant under such terms and conditions as are determined by the Head of the Home Civil Service.

Head of National Statistics

4.3.3 The National Statistician has responsibility for the professional quality of the outputs comprising National Statistics. She or he will maintain and publish a National Statistics Code of Practice to assist this end. In fulfilling this role, he or she will work closely with Heads of Profession for Statistics in Departments and will take account of the views of users. The National Statistician will be responsible for ensuring that the Chancellor of the Exchequer, as Minister for National Statistics, and Departmental Ministers are consulted on proposals that impinge on matters of government policy.

4.3.4 The National Statistician as Head of National Statistics, and in consultation with statistics Heads of Profession in departments, has the following functions on an UK basis. He or she will:

Improving Quality and Relevance of National Statistics

- (a) establish the planning framework for National Statistics and the appropriate National Statistics committee structure for delivering planning and management functions, and make appointments to these committees;
- (b) produce a coherent high-level programme for National Statistics that reflects the needs of users and which brings together the key elements of statistical work programmes across government, and present this programme to the Statistics Commission;
- (c) establish quality assurance processes for National Statistics including a programme of thorough reviews of key outputs at least every five years with the involvement of external expertise;
- (d) be responsible for definitions and methodology of National Statistics within the framework of international agreements and conventions, and within the restrictions of administrative systems. In the case of the RPI special arrangements apply: the National Statistician will take the lead in advising on methodological questions concerning the RPI but the scope and definition of the index will continue to be matters for the Chancellor of the Exchequer;
- (e) establish and maintain mechanisms for taking into account the views of users and providers of data in the priority setting process;
- (f) as appropriate will establish advisory committees and make appointments to them;
- (g) promote high quality statistical outputs through systematic evaluation and research, and facilitate access to those outputs; Improving Public Confidence in National Statistics
- (h) promote the integrity and validity of National Statistics, understanding of statistical issues, and the use and interpretation of statistics;
- (i) develop and maintain a professional code of practice for producers of National Statistics and, as necessary, resolve any issues concerning interpretation of the code of practice;
- (j) within the framework of departmental statistical work programmes, and the agreed broad coverage of departmental outputs, have responsibility for the professional integrity of those outputs comprising National Statistics, including responsibility for the timing of their release, and for the content and format of that release, taking into account the views of users;
- (k) set professional standards for National Statistics, including standards for release arrangements and quality assessment, and has the authority to determine whether or not a statistical output meets those standards;
- (l) have the right of access to the Prime Minister, through the Head of the Home Civil Service, on matters concerning the integrity and validity of official statistics including on resources where he/she believes they impact on the integrity and validity of official statistics;

Operate Efficiently

- (m) provide guidance in the National Statistics Code of Practice on ways efficiency can be optimised, and report on efficiency improvements in the annual report on National Statistics;

- (n) estimate the compliance costs to businesses and local authorities of responding to statistical enquiries and seek to minimise the burdens on those who supply data for National Statistics or other statistical purposes;

International Responsibilities

- (o) promote EU/international co-operation on statistical matters and ensure an effective contribution is made to international statistical developments including work on definitions and methodology;
- (p) have responsibility to fulfil UK statistical obligations to the European Union and international bodies;

Co-ordination across Government

- (q) act as Head of the Government Statistical Service and be responsible for maintaining central personnel and staff development functions to ensure the availability of skilled professional statisticians across government, and promote the application of the National Statistics Code of Practice for all statistical work in government;
- (r) facilitate and promote the development of statistical methodologies, classifications and standards, and information systems;
- (s) facilitate and promote dissemination and marketing arrangements for National Statistics;
- (t) resolve interdepartmental disputes over issues of statistical integrity or methodology;
- (u) make available to the Statistics Commission information required by the Commission to perform its duties;

Devolution

- (v) work with Heads of Profession in Scotland, Wales and Northern Ireland, to meet users' needs and to promote comparable statistics across the UK - in particular, this will be essential for statistics required to be submitted on a UK basis to the EU or international bodies;
- (w) work with Heads of Profession across the UK to ensure effective sharing of statistical information between the UK government and the devolved administrations in accordance with the Memorandum of Understanding and the associated Concordat on Statistics;

Performance Reporting

- (x) prepare an annual report on the performance of National Statistics to the Chancellor, as Minister for National Statistics;
- (y) appear before Parliamentary Committees as requested to answer questions about National Statistics and respond openly and honestly on all professional statistical matters.

4.4 RESPONSIBILITIES OF THE HEADS OF PROFESSION FOR STATISTICS

4.4.1 Where a department produces National Statistics, or widely uses official statistics, or where it has a group of official statisticians, there shall be a designated Head of Profession for Statistics (referred to as the "Head of Profession"). Heads of Profession will be designated by Heads of Department. The Head of Department will do so after seeking the views of the National Statistician. The National Statistician will be Head of Profession for Statistics for ONS.

Functions

4.4.2 Heads of Profession will be responsible for the professional integrity of National Statistics produced by their departments. In discharging their responsibilities, the Heads of Profession will work closely with the National Statistician as Head of National Statistics and overall Head of Profession for statistics across Government. Heads of Profession are responsible to the National Statistician for the professional quality of their work. They will collaborate with the National Statistician in his/her professional responsibilities while remaining in the formal line management of their departments. Where aspects of a Head of Profession's responsibilities extend to other bodies or parts of his or her department, this should be documented by that Head of Profession as part of the job description.

4.4.3 Heads of Profession will:

Improving Quality and Relevance of National Statistics

- (a) prepare the statistical work programmes for their Departments in consultation with the National Statistician and support the National Statistician in devising and delivering a coherent programme for National Statistics;
- (b) have responsibility for co-ordinating their departmental statistical programmes and promoting within the department the implementation of National Statistics policies;
- (c) promote the use of statistical information and advice in departmental decision-making;
- (d) support user consultation and take account of users' views;
- (e) implement quality assurance processes for National Statistics produced by their Department, including thorough and timely reviews of key outputs, with the involvement of external expertise.

Improving Public Confidence in National Statistics

- (f) observe the National Statistics Code of Practice and other standards for National Statistics and promote their use in departments;
- (g) have a responsibility to the National Statistician for the professional quality of their work;
- (h) advise on and promote best practice in statistical work throughout their departments and, with the National Statistician, safeguard the integrity of, and public confidence in, the statistical work and all National Statistics produced in their departments;
- (i) promote the professional independence of the department's statistical work, the propriety and impartiality of its decisions, the quality of its outputs and the integrity and validity of its statistics and commentaries;
- (j) have a duty to refer matters related to the professional integrity of National Statistics produced by their departments to the National Statistician and, with the National Statistician's help where appropriate, to address these;
- (k) protect the confidentiality of people and organisations from the unauthorised disclosure of information held about them by their departments for National Statistics or other statistical purposes;

Operate Efficiently

- (l) have responsibility for meeting the service, quality and efficiency standards set by Ministers;

- (m) estimate the compliance costs to businesses and local authorities of responding to statistical enquiries and seek to minimise the burdens on those who supply data to their departments for National Statistics or other statistical purposes;
- (n) promote the use of departmental administrative systems for statistical purposes, and pursue these within a National Statistics context;

Co-ordination across Government

- (o) ensure an appropriate departmental input to the development of policy and strategy on National Statistics by participating in interdepartmental committees and working groups, and by encouraging others in their departments to do so;
- (p) advise on the recruitment, training and development, posting, appraisal, promotion and retention of statistical staff in the department; and serve on or otherwise ensuring appropriate representation on, all recruitment, promotion and other boards for statistical staff;
- (q) facilitate and promote dissemination and marketing arrangements for National Statistics;

Devolution

- (r) work with the National Statistician and other Heads of Profession to promote comparable statistics across the UK;

Performance Reporting

- (s) contribute to the annual report on the performance of National Statistics prepared by the National Statistician.

The Speaker's Committee and oversight of the Electoral Commission

The Speaker's Committee was established by the same Act of Parliament that created The Electoral Commission.

We are required to submit each year to the Speaker's Committee an estimate of income and expenditure, together with a five year strategic plan. The Speaker's Committee may modify the estimate and the five year plan before laying the documents before the House of Commons. It is then considered by the House, which approves the estimate and or otherwise.

The membership of the Committee is currently:

1. The Speaker of the House of Commons, as Chair of the Committee (Rt. Hon. Michael Martin MP, Glasgow Springburn).
2. The Chairman of the Lord Chancellor's Department Select Committee of the House of Commons (Rt. Hon. Alan Beith, MP., Liberal Democrat, Berwick-upon-Tweed).
3. The Lord Chancellor (Rt Hon. The Lord Irvine of Lairg, QC).
4. A Member of the House of Commons who is a Minister of the Crown with responsibilities in relation to local government, appointed to the Committee by the Prime Minister (Rt. Hon. Nick Raynsford MP, Labour, Greenwich and Woolwich)
5. Five Members of the House of Commons who are not Ministers of the Crown, appointed to the Committee by the Speaker of the House of Commons:
 - i. Mrs Angela Browning MP (Conservative, Tiverton and Honiton)
 - ii. Lady Sylvia Hermon MP (Ulster Unionist, North Down)
 - iii. Rt. Hon. Gerald Kaufman MP (Labour, Manchester Gorton)
 - iv. Humfrey Malins MP (Conservative, Woking)
 - v. Peter Viggers MP (Conservative, Gosport)

The Secretary to the Speaker's Committee is Dr Christopher Ward. He may be contacted at the following address: Secretary to the Speaker's Committee on the Electoral Commission, Committee Office, House of Commons, London, SW1A 0AA

Neither the Commission's Chairman nor any other representative of the Commission is a member of the Speaker's Committee. However, the Chairman and Chief Executive may be expected to attend meetings, which usually take place twice a year.

One member of the Speaker's Committee is appointed by the Speaker to answer questions from MPs on the work of the Commission. That member is currently Peter Viggers MP.