



Ethics in the Public Service

PUBLIC TRUST: ETHICS MEASURES IN OECD COUNTRIES

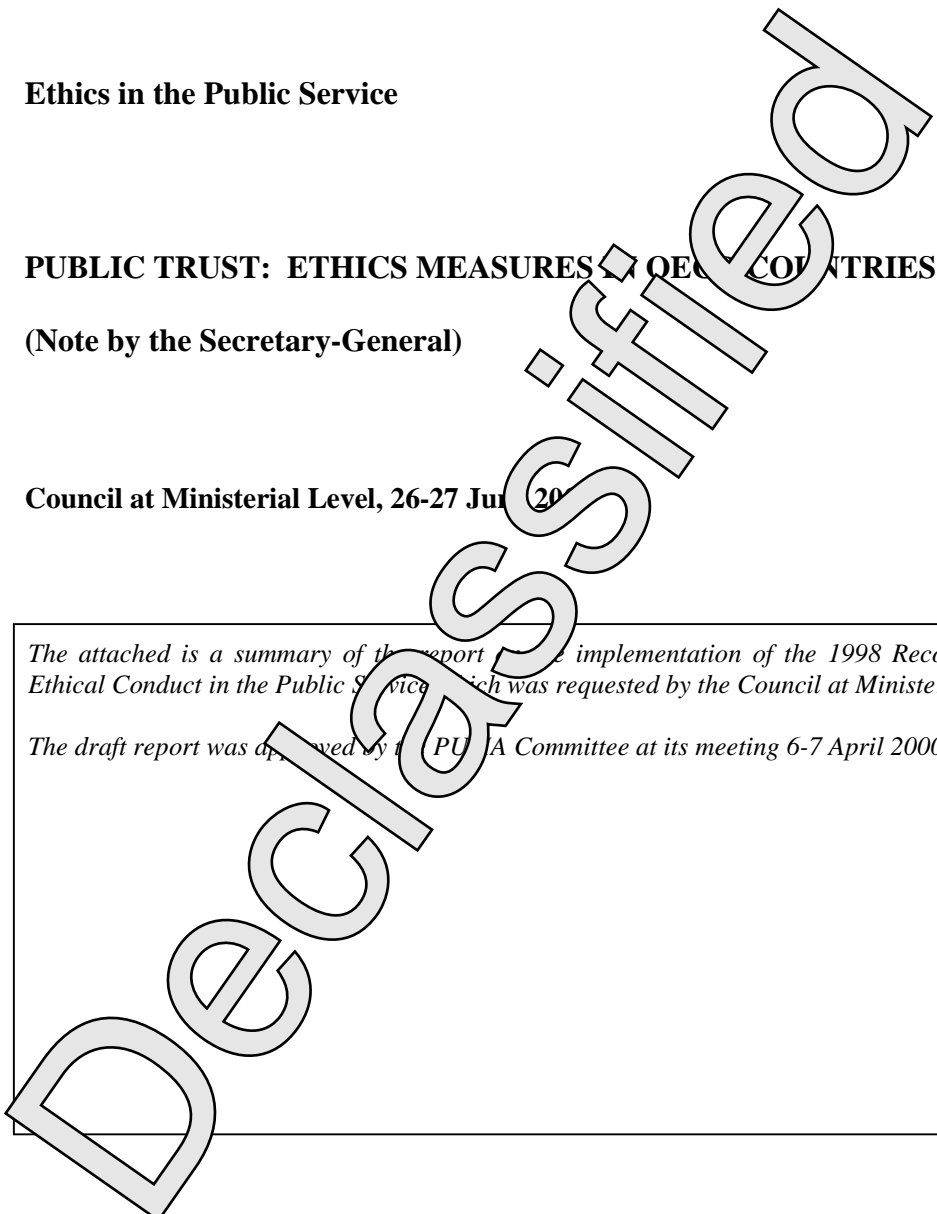
(Note by the Secretary-General)

Council at Ministerial Level, 26-27 June 2000

The attached is a summary of the report on the implementation of the 1998 Recommendation on Improving Ethical Conduct in the Public Service which was requested by the Council at Ministerial Level in April 1998.

The draft report was approved by the PU/A Committee at its meeting 6-7 April 2000.

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PUBLIC TRUST: ETHICS MEASURES IN OECD COUNTRIES

Introduction

1. Public service is a public trust. Citizens expect public servants to be committed to serving the public interest by providing impartial treatment and by managing public resources properly on a daily basis. Fair and reliable public services inspire public trust and also create a favourable environment for businesses, thus contributing to well-functioning markets. Public ethics are a prerequisite to, and underpin, public trust, and are a keystone of good governance. The forthcoming OECD report¹ provides - for the first time - a comprehensive overview of ethics measures in all 29 OECD countries, including overall trends, models, promising practices and innovative solutions.

2. The rapidly changing socio-economic environment, and especially the growing demand for transparency, requires that we review and adjust mechanisms to ensure strong links between expected and actual behaviour. Through extensive consultation and discussion among Member countries on what works in practice, the OECD has developed a comprehensive approach to ethics in which individual steps combine to form a strong and coherent system to promote ethical standards. We are also supporting our Members in their actions to improve mechanisms for monitoring compliance and sanction against wrongdoing.

3. A key challenge for government is to adapt the mission of the public service to current needs. A relevant mission ensures that public service aims, core values and standards meet changing public expectations. A modern set of core values combines "traditional" values, such as impartiality, legality and integrity (which still determine the distinct characteristics of the public service) with "new" values such as greater public accountability and transparency.

4. To put the values into effect, Members need to legislate for some standards of behaviour, particularly in relation to using official information and public resources, receiving gifts or benefits and working outside the public service. Sensitive areas with a higher potential risk of conflict of interest, such as justice, tax and customs administration as well as the political/administrative interface, entail additional standards.

5. Building trust in public institutions requires a permanent "forward look" to anticipate emerging risks. Governments need to ensure that individual private interests do not distort public decisions. They also need to take advantage of new technology to inform citizens on standards expected of officials serving the public.

6. Countries increasingly recognise the essentials of a comprehensive ethics strategy. This forthcoming report constitutes a unique comparative source of ethics management measures, illustrated in the individual country chapters. It is designed to facilitate mutual learning and support policy-makers in constructing modern ethics strategies both in OECD and non-member countries. In other words, this report is dedicated to building public trust.

¹ This document is the summary of the forthcoming OECD report on the implementation of the 1998 Recommendation on Improving Ethical Conduct in the Public Service. The report is based on self-assessment of 29 countries; central governments provided information on systems in place and how they work. At the same time, the database presented in this report aims to support efforts by countries to evaluate their systems in the context of practice and trends across Member countries.

SUMMARY OF THE REPORT

Public ethics are a keystone of good governance.

Ethics measures are now vital ingredients of good governance.

7. Integrity has become the fundamental condition for governments to provide a trustworthy and effective framework for the economic and social life of their citizens. The institutions and mechanisms for promoting integrity are more and more considered as basic components of good governance. The forthcoming OECD report provides – for the first time – a comprehensive database of integrity measures used in 29 Member countries and it also takes stock of common trends and good practices.

Integrity is about forging strong links between expected ideals and formal behaviour.

8. Ensuring integrity means that:

- Public servants' behaviour is in line with the public purposes of the organisation in which they work.
- Daily public service operations for businesses are reliable.
- Citizens receive impartial treatment on the basis of legality and justice.
- Public resources are effectively, efficiently and properly used.
- Decision-making procedures are transparent to the public, and measures are in place to permit public scrutiny and redress.

Reforms have changed the public service environment ...

9. Countries are under constant pressure to bring their integrity measures into line with today's rapidly changing realities – including globalisation, European integration, citizens' demands for performance and accountability. Governments of Member countries have reformed their public sectors to allow for more flexibility in achieving desired public goals. Decentralisation and devolved public service management have reduced controls and given greater flexibility for discretion by officials. While the increased use of private sector methods enhanced public sector efficiency and effectiveness, it also had led to a fragmentation of "traditional" public service values, standards and ways of operating.

... which needs improved mechanisms to ensure adherence to core values.

10. This situation requires enhanced mechanisms to improve public servants' accountability for their new discretionary powers and to ensure that they adhere to the updated values as well as to citizens' expectations. The right balance between devolution and accountability is of central importance in achieving a well-performing, professional public service. As traditional central regulations and controls are reduced, the role of values – and the public interest concepts that they embrace – becomes increasingly significant, both as a guide for behaviour and as the common reference point and unifying thread for the whole public service.

The report shows the increasing efforts and progress in ethics management in the OECD area.

OECD countries share basic commonalities in developing a sound Ethics Infrastructure...

11. The report describes common trends in building the Ethics Infrastructure in OECD countries. It also highlights that a consistent system of supportive mechanisms is necessary to:

- Communicate and inculcate core values and ethical standards for public servants (in order to provide clear guidance and advice to help solve ethical dilemmas).
- Promote ethical standards, prevent situations prone to conflict of interest and reward high standards of conduct through career development.
- Monitor compliance and report, detect, investigate and sanction wrongdoing.

...however their particular environments determine the concrete measures they use.

12. The report also demonstrates that despite common trends, specific measures in countries reflect national differences in priorities and social, administrative and political culture. The second part of the report presents an up-to-date database of existing mechanisms in place for promoting integrity and countering corruption in all OECD countries, including most recent and planned measures.

Statements of core values provide the basis for public service operations within OECD countries.

Core values should provide a solid basis for daily operations in the public service.

13. Identifying core values is the first step to create a culture in which both public servants and society have a common understanding of the expected behaviour of public office holders. The survey revealed that all OECD countries state a set of core values for guiding their public service in daily operations. Though core values appear in a variety of forms, including legal documents – such as constitutions – and promotional publications, Member countries draw these values from the same substantial sources, namely society, democracy and profession.

The changing public sector environment requires the updating of core values.

14. Over one-third of Member countries have already updated their core public service values in the last five years and further reviews are still being undertaken. In the course of the revisions, OECD countries have re-emphasised the “traditional” values while giving them a modern content and combining them with “new” values to mirror the increasingly result-based public service culture.

Impartiality, legality and integrity are the distinct characteristics of the public service.

15. Impartiality is ranked at the top of the list of core values. Nowadays it also implies equal access to public services, as well as equal standing before the law. As the survey demonstrates, the updated “traditional” values still form the backbone of public service values: impartiality, legality and integrity are the three most frequently stated core public service values in OECD countries. But they have been complemented by “new” values, such as efficiency and transparency, reflecting evolving social demands and changes in public management.

Legislating standards of behaviour has become the primary way to elaborate on stated core values throughout the public service.

Potential conflict of interest situations call for detailed standards across the public service.

16. Core values guide the judgement of public servants about what is good and proper in their daily operations. To put the values into effect, almost all OECD countries have developed a more detailed description of standards expected of all public servants in sensitive situations. The report clearly indicates that standards set boundaries for public servants' conduct particularly in relation to the use of official information and public resources, receiving gifts or benefits and work outside the public service. The report also illustrates that legislating standards of behaviour for the whole public service has been a strong tendency throughout the OECD area, although guiding documents also widely articulate expected standards

Specific professions entail additional standards ...

17. The survey emphasises that more rigorous attention is needed for specific groups working in sensitive areas or where there is a high risk of conflict of interest. These include especially core functions of the state, and areas where citizens are fully dependent on public services. The report illustrates that the vast majority of OECD countries employ supplementary guidelines for specific groups or professions in addition to the general standards applicable to all public servants. Member countries focus especially, on justice, tax and custom administrations as well as on police and national defence.

... this includes codes for ministers.

18. The report indicates as an emerging area the political/administrative interface for which just over half of the countries have already developed specific guidelines. Some countries also elaborated codes for ministers to guide them on matters relating to the conduct of government business. The major challenge for countries is how to ensure consistent standards of behaviour for the entire public service and at the same time take into account specific characteristics of the respective sectors and of individual agencies.

Laws endorse ethical standards and provide a framework for ethics management.

19. Laws provide the framework for investigation, whistleblowing, disciplinary action and prosecution to counter the failure of public servants to comply with the specified standards of behaviour. However, a growing number of countries have recently incorporated other elements of their ethics infrastructure into the legal framework, for example the set of core values and code of conduct.

Criminal laws sanction specific forms of corruption...

20. The report demonstrates that almost all OECD countries criminalise active and passive forms of corruption committed by public officials. Similarly, more and more countries are also criminalising other forms of corruption, such as direct, indirect and attempted corruption, and extending its scope to foreign public officials. A growing number of OECD countries also criminalise breaches of core public service values and principles, such as impartiality in decision-making, and upholding the public trust: not using the public office for private gain.

... as well as breaches of core values.

Putting values into effect needs communication of core values as well as training to raise awareness within the public service.

Active staff involvement in the modernisation of values creates common understanding.

21. The report shows that over one-third of OECD countries have consulted with defined groups within the public service or beyond and have even published the draft document on public values for public comment. The involvement of the staff concerned in the revision process was a crucial factor for establishing mutual understanding among public servants and lead to a smoother implementation later.

Governments should focus on inculcation of values and standards ...

22. The report demonstrates that a vast majority of Member countries communicate values. Over half of the countries focus on new recruits by providing information on values when they join the public service. In a third of the countries the statement of values is part of the employment contract. The report also shows that almost all OECD countries provide training principally to raise awareness of public servants on ethical issues but there is a growing emphasis on the development of the necessary skills for public servants to handle ethical dilemmas. In addition, public servants are not alone when they confront ethical dilemmas in the workplace: they have the possibility of turning to their superiors for advice in the majority of countries, though some countries provide access to external bodies, such as special central agencies, to ensure the neutrality of advice.

...and explore the innovative solutions provided by new technologies.

23. A growing number of countries have been recognising the advantage of using new technology, especially the Internet and interactive CD-ROMs, to give information on values and expected standards as well as to train public servants on ethics issues.

Reviews of management measures should build a working environment that emphasises integrity, core values and transparency.

Create a general management environment which ensures transparency ...

24. Building a supportive working environment begins with general management measures. The report shows that the vast majority of OECD countries employ the following key management measures for ensuring transparency:

- Setting standards for timeliness.
- Requiring reasons for decisions.
- Providing redress against decisions.

These management measures are seen as the primary instruments to build a supportive working environment.

... and re-enforce merit and integrity from recruitment through career development.

25. In particular, human resources management plays an essential role in promoting an ethical environment by developing professionalism and enforcing transparency in daily practice. The survey showed that OECD countries are aware of the importance of sound human resources management and almost unanimously base recruitment and promotion on merit in their public service. The vast majority of countries secure the openness of their selection processes by publishing both the recruitment rules and vacant positions. Over half of the countries also take ethical considerations into account in recruitment and performance appraisal.

Put a growing emphasis on prevention of possible conflict of interest.

26. The report illustrates that the vast majority of OECD countries give attention to conflict of interest, by requiring the identification and reporting of conflict of interest. Two-third of the countries have developed specific anti-corruption measures in sensitive areas, such as public procurement. Paying special attention to officials in positions that are particularly susceptible to corruption is a rising concern for OECD countries. Two-third of the countries employ supplementary measures for officials working in these areas, such as specific regulations and guidelines, stricter control or regular redeployment.

Disclose information on private interests to make decision-making more transparent ...

27. With few exceptions, OECD countries require disclosure of personal financial interests to minimise the possibility of conflicts arising between public duties and private interests. Around half of the countries also oblige disclosure on outside positions and gifts. The higher the position, the more transparency is called for. Typically, disclosure is required from elected officials and senior public servants, and in a few countries only from public servants in general. Certain sensitive sectors, such as the tax and custom administrations, also demand more stringent disclosure.

... and also to help detection.

28. The overwhelming purpose of disclosure policy is to avoid conflict of interest and provide guidance. However, some countries use disclosures to assist the detection of illicit enrichment and contribute to investigations and disciplinary procedures. Generally, disclosure is required when someone joins the public service and then on an annual basis in just over half of the OECD countries. In the majority of cases the information is exclusive to internal official use and remains confidential, but some countries allow public access in order to maintain close public scrutiny.

Management also implies ensuring the monitoring of compliance with expected standards.

Create thorough internal control to detect individual irregularities and systemic failures.

29. Almost all OECD countries apply internal control enabling the managers to recognise and expose any phenomena that make corruption possible. The report shows that OECD countries either have strengthened the already existing legal measures or established a legal framework for internal control. Internal control, as a widely recognised instrument throughout the OECD area, supports corruption prevention efforts by monitoring the management of public resources and detecting and signalling individual deficiencies and systemic weaknesses. Moreover, internal control reviews recommend measures for improving management and, in some cases, they directly inform the political level.

Integrate internal control into the management framework of organisations.

30. Nevertheless, the organisation, frequency and follow-up mechanisms vary from one country to another. Most countries have internal control in each agency and department, and the reviews are carried out on an annual basis or when the need arises. The findings of

reviews are usually addressed to the management within the organisations and only a few countries make the reports accessible to the general public. The internal control reviews are often accompanied by some kind of external supervision that also checks the effectiveness of internal control systems.

Internal control needs to be accompanied by independent scrutiny ...

31. The survey reveals that all OECD countries have institutions performing independent scrutiny over public service operations. They keep public servants accountable for their actions, ultimately, to the public. In virtually all countries, the legislative branch – either the Parliament/Congress or its committees – undertakes reviews of public service activities. The other most frequently used types of scrutiny range from external independent audit through investigation by the Ombudsman to specific judicial or ethics reviews. The report also indicates that empowering an independent commissioner or commission (Ombudsman) to scrutinise maladministration has become a popular instrument in over half of the countries. An emerging trend is to create a specialised independent unit for public service ethics.

... in which external audit plays the vital role.

32. The report demonstrates that both internal and external audit are recognised in many countries as important forms for uncovering and investigating fraud and corruption through their role of supervising the legality and propriety of state revenues and expenditure. Internal audit is used in some countries, while the vast majority of OECD countries employ external audits conducted mainly by supreme audit institutions with jurisdiction over the whole public service. In order to keep the public informed, external audit reports are routinely published in two-thirds of the countries.

Empower both public servants and citizens to report misconduct and provide protection for whistleblowers.

Reporting wrongdoing has become an evolving concern for governments ...

33. Two-thirds of Member countries either oblige their public servants to report misconduct and/or provide procedures to facilitate its reporting. Among those countries with whistleblowing schemes, two-thirds define the rules and procedures to be followed in their legal framework, whereas other countries define them in their internal organisational rules. Moreover, managers as well as designated organisations are in charge of both providing assistance and investigating the individual cases. Nowadays, the Internet provides a new device for the public to report misconduct.

... and also providing protection for whistleblowers.

34. A growing need to provide protection for whistleblowers in the public service is visible across OECD countries. Almost half of the Member countries offer general protection mainly in their public service framework. The most commonly provided safeguards are legal protection and anonymity.

Countries are also empowering the public to expose wrongdoing.

35. OECD countries have much in common regarding the procedures for citizens to expose wrongdoing committed by public servants. Two-thirds of Member countries make available similar avenues for the public such as complaint procedures, ombudsman and help desk or telephone lines.

Taking actions against violations of standards are the shared responsibility of managers and external investigative bodies.

Laws make available disciplinary measures to sanction breaches of public service standards.

36. All OECD countries recognise that in the case of a breach of public service standards disciplinary actions should be taken within the organisation where they occurred. All governments have developed a general framework for disciplinary procedures which provides both a practical instrument for managers to impose timely and just sanctions and guarantees a fair process for the public servants concerned. Laws – civil service or public service acts in general – are the primary source of disciplinary procedures and sanctions for public servants in most countries. However, agency documents or departmental contracts are often complementary to the general legal framework. In some cases, the violation of administrative rules may also constitute a violation of the criminal or penal codes.

Managers have a key role in initiating disciplinary measures.

37. The report shows that managers have a key role in initiating disciplinary measures in their agencies in a timely manner, but they can also receive assistance from specific external institutions. In many countries, it is the managers' duty to detect breaches of public service rules and to sanction them with adequate and timely administrative and disciplinary measures in the respective public sector organisations.

Disciplinary procedures sanction breaches and also ensure fair treatment.

38. The survey confirmed that OECD countries employ very similar kinds of disciplinary sanctions. These range from warning and reprimand through material penalty to temporary or final dismissal. All countries take into account dismissal as the stiffest disciplinary consequence. The report demonstrates that countries seek to ensure fair treatment in the disciplinary procedures mainly by providing guarantees for public servants in the course of procedure. As one of the more important guarantees, most countries provide the possibility of legal redress against disciplinary action.

Managers share responsibility with external investigative bodies ...

39. Although public sector managers have the primary responsibility for initiating the investigation of alleged misconduct, the report confirmed that external institutions still continue to be the most important forms for investigating and prosecuting misconduct in the public service. Two-third of the countries have created investigative bodies operating with jurisdiction over the whole public service while the investigative function already exists inside individual public service agencies in almost half of the countries. Less than one-third of the countries employ specialised investigative bodies operating with exclusive jurisdiction over a specific sector.

... however these external bodies play the lead role in investigation and prosecution.

40. Where there is a possible breach of criminal law, the police are naturally the most common investigative body in OECD countries. Prosecuting misconduct, especially corruption committed by public office holders, is the classic responsibility of the ordinary public prosecutor's office in almost all OECD countries. The investigative and/or prosecuting

bodies are empowered to bring suspected cases of corruption directly to court in all OECD countries. Moreover, two-thirds of the countries noted that they have procedures and mechanisms available to bring wrongdoing to the attention of bodies exercising independent scrutiny on public service activities. OECD countries seek to guarantee the objectivity and impartiality of the investigations and prosecutions, and to maintain the independence of institutions involved through dedicated laws.

Managing government ethics and anti-corruption policy includes co-ordination and assessment of various measures.

Co-ordination of integrity measures is a precondition for success.

41. The survey showed that successful integrity measures consist of a combination of actions that are consistent with each other and take into account the wider public service environment. This recognition led to the need for co-ordinating the wide variety of activities in place and ensuring that these ethics and anti-corruption measures were consistent and complementary. A few countries have developed a complex package of measures while just over half of the countries have assigned central institution(s) to co-ordinate the implementation of ethics-related measures, including ensuring the consistency of legal regulations and providing national guidance to help develop prevention strategies in individual organisations. A growing concern is to involve non-governmental organisations as well as trade unions both in the preparation and the implementation of integrity measures.

Managing the implementation of integrity measures also implies assessment.

42. While the assessment of individual conduct is a management responsibility in each public service organisation, the majority of OECD countries has developed procedures and has assigned organisation(s) to assess the effectiveness of measures for promoting ethical conduct and preventing misconduct in their public service. Generally, central institutions, ministries in charge of public service policy as well as audit bodies are assigned to carry out reviews and summarise their findings in reports on an annual or biennial basis. The most frequently used measure by OECD countries is the analysis of systemic failures and trends in criminal and disciplinary cases.

43. Although some countries have no centralised procedure or central organisation in place for assessing the effectiveness of measures promoting ethical conduct and preventing misconduct in the whole public service, they make efforts to assess certain sensitive areas of their public sector activities. Moreover, countries that have recently launched specific anti-corruption programmes are still in the process of carrying them out, and the effectiveness of these measures will only be assessed when their implementation is complete.

Lessons learned from the survey ...

Governments should give a clear mission for their public service.

44. In a rapidly changing world which demands new ways of working from public servants, governments should announce the mission statement of their public service. This would guide public servants about their aims, roles and values and would be a crucial step in renewing and rooting a modern public service culture. However, mission statements need to be completed with communication that helps the public to visualise it on the one hand, and internalise the mission within the public service on the other. Making the mission and the expected standards visible for the public is of central importance in building trust in public institutions.

Mechanisms for safeguarding values need to be further adjusted to reflect the ongoing changes in public management.

45. Recent trends in public management suggest that countries realise the need for adjusting their frameworks for promoting integrity and countering corruption in the public service. The questionnaire used in the OECD survey provides a framework for assessment, while the report – the main outcome of the survey – is an exclusive resource document. This report shows directions for policy-makers by describing recent trends in integrity measures and provides a database of individual solutions in the respective Member countries, and describes these solutions in the framework of their national environment.

Integrate integrity measures into the overall management.

46. Integrity measures should not be considered as a separate and distinct activity, but rather as an integral part of all management systems. This also creates an understanding about the necessary consistency between a strict and centralised compliance-based ethics management framework in a rules and process-based public management system on the one hand, and an ethics framework built on unenforceable aspirations and incentives in devolved results-based management systems on the other hand. Naturally, countries should draw their own conclusions taking into account their individual political and administrative traditions.

Emphasis is shifting from enforcement to prevention.

47. Completing the ethics infrastructure needs continuous efforts. Countries are increasingly realising the necessity of prevention because they have recognised that the more they pay attention to prevention, the less enforcement is needed. Prevention is a less expensive investment in the long term, with a more positive impact on the public service culture and on the relationship between the public service and civil society.

The report provides a unique instrument for non-members and sub-national governments.

48. The report describes the experiences of OECD countries, including the challenges they have faced and their responses. The information on overall trends as well as concrete solutions also gives a unique insight for non-member countries on global directions and can help in the development of their ethics management frameworks. In addition, the experiences of central governments are useful for sub-national governments.

Central governments can also learn from others in the field.

49. However some sub-national governments have produced very innovative solutions in creating their comprehensive Ethics Framework. Recent examples show that these integrity measures are fundamental building blocks in the decentralisation process in order to create self-identity for the sub-national public institutions and keep public confidence in these new institutions.

... and a forward look at emerging issues and directions

But governments should anticipate the issues that could cause problems ...

50. Internalising ethics is more and more difficult for a public service which has converged with other sectors. Maintaining distinct public service standards needs special efforts from managers to motivate public servants. Additionally, governments need to anticipate situations that might weaken adherence to the distinct public service values and standards of behaviour and prepare suitable responses to prevent adverse effects.

... such as private interests intervening in public decisions.

51. Citizens trust public institutions when they know that public offices are used for the public good. Compared to just a few years ago, they are demanding much greater transparency and accountability by public officials and state institutions. Indeed, the public expects more information on private interests which intervene in the decision-making process of public institutions, especially in at the interface between the public and private sectors.

OECD could help explore emerging issues such as the development of transparent mechanisms in disclosing private interests ...

52. Demand for more transparent public life is a crucial driving force in OECD countries. OECD is an ideal place to further explore issues related to transparency in the public sector, such as proper disclosure of private interests in lobbying, given its analytical work on public ethics and the rich and diverse experiences of Member countries.

... and find the best use of new techniques that help internalise integrity in a rapidly changing world.

53. Structural changes over the past two decades have made public sector employment increasingly similar to that of the private sector. In addition, the enhanced interchange between the public and private sectors requires quick internalisation of core public service values and standards to ensure that core values are aligned with the demands of the services they provide and with the wider public interest. OECD is well placed to analyse innovative techniques and practical methods to identify modern management instruments that help public servants to internalise integrity in the Member countries. Exploring the ways to harness new technologies to its fullest use is a key opportunity for Member countries to find responses to their challenges in the coming years.