

**PE1595/A**

Dee McHaffie Letter of 11 January 2016

F.A.O. Public Petitions Committee

Dear Committee Members,

I wish to add my support for the under noted petition, PE 01594, which I understand will be considered on 12.01.2016.

**Petition Number:** PE1594

**Main Petitioner:** Richard Burton, on behalf of Accountability Scotland

**Subject:** Specification of 'lying' as an example of public maladministration

Calls on the Scottish Parliament to urge the Scottish Government to amend the Scottish Public Services Ombudsman Act 2002 to define maladministration in such a way that formalises the Crossman Catalogue as a source of examples and adds lying to the list of examples.

➤ **Maladministration** : Definitions of maladministration are all very similar:

- Wikipedia = Maladministration is the actions of a government body which can be seen as causing an injustice [UK law says Ombudsman must investigate]
- Oxford Dictionary = Dishonest administration.
- Collins Dictionary = Bad or dishonest management of the affairs of an organisation.
- Business Dictionary = Situation where the individual or group in charge is unjust or dishonest in leadership. Frequently used to describe corrupt behaviour by any public official; bad, inefficient, or dishonest.
- Thersarus Definitions = mismanagement, misrule, corruption, malpractice, dishonesty, malfeasance.

Although, no doubt one could quibble and argue over the semantics of the word, all the defined meanings and synonyms denote bad, morally unethical management; such failure in a public service, is in conflict with the Nolan Principles, organisational codes of conduct, policies and procedures and notwithstanding the standards of reasonable, honest people.

➤ As the petitioner points out 'maladministration' is not defined in the SPSO Act 2002.

The 1967 'Crossman catalogue' and the 1993 additional examples gives examples of maladministration, some of which eg. rudeness, whilst unacceptable behaviour would not in itself be considered dishonest or corrupt.

Clearly having no statutory definition of maladministration, creates a problem. Perhaps for the purpose of petition PE 01594, it might be helpful for the Committee to consider and define what in this context, would constitute 'wilful maladministration', ie. which is clearly neither incompetence nor inadvertent error of judgement.

- Lying has three elements.

'Lying is giving information, while believing it to be untrue, intending to deceive by doing so.'

If 'lying' should be included as an example of 'maladministration', it is the third element, which is all important

– the reason for the deception and if a 'black lie', the level of harm, that it does

- We are all too aware, in recent years of the litany of public service scandals, which have very much eroded public confidence in eg. notably, the police service and NHS. In such cases, policies, procedures and key principles of good governance have been ignored - in Scotland as well as elsewhere in UK.

Public trust in what organisations say, is further dented when conclusions of inquiries into such scandals, often expose dishonest, self-serving cover up and tissues of 'black' lies, which have been repeated, sometimes over many years, with reckless indifference.

In the financial sector, individuals who make statements, which they know to be misleading, false or deceptive or recklessly make statements, whether they are dishonest or not or dishonestly conceal material facts, face criminal liability. [ FSA Regulations UK law 2010]

In stark contrast, to lying in the City, the same behaviour by the leadership of eg. NHS organisations usually goes uncensured, even when it concerns the deaths of patients.

- **Is loss of money really more important than patient safety or loss of life?**

Disregarding & so condoning, dishonest, defensive lying by leadership of any public service is unacceptable.

**Judged by the standards of reasonable, honest people, are leaders who do so, fit and proper persons for positions of high trust?**

- It is interesting that a few years ago, a CEO and Chair of a NHS Scotland Board were brought before the Scottish Parliament Audit Committee for financial failings.

**How many CEOs or Chairs have been called to account for lying or other unethical leadership?**

- Employees who embellish or invent qualifications or experience, quite rightly, usually face dismissal for lying and the possibility of criminal prosecution. However, some organisations operate double standards – management loudly condemning CV lies, whilst blatantly lying to cover up other gross misconduct or malpractice, to evade responsibility and save their own skins, or making mendacious claims against eg. whistleblowers who speak up.

- The Nolan Principles were of course in response to concerns about financial impropriety eg. the cash for questions affair – moreover the principles are only aspirational and by themselves do not found a complaint – again, somewhat bewildering to reasonable, honest people!
- In Scotland, public service organisations have policies, codes of conduct and principles which formally set out the core values, standards of behaviour that should guide ethical decision making and practices, within a culture where doing the right thing is the expected norm, at all levels.
- Whilst morally ethical leaders will act with integrity, the devious and mendacious will not, until such time as they are held accountable – those guilty of ‘deliberate lying’ would think twice, if the consequence was loss of position. [ the punishment for CV lies]
- **Examples of ‘ lying’ which exemplifies ‘wilful maladministration’ .**
  - **Such lying is an admission of something to hide.**
  - **Exculpatory lying to cover up own personal mistakes or wrongdoing – self –serving.**
  - **Deliberate defensive lying to cover up known mistakes or wrongdoing of others – cronyism or organisational reputation.**
  - **Blindly lying to cover up mistakes or wrongdoing of others ie. without investigating for the truth.**
  - **Blindly repeating lies of others ie. without first hand knowledge of the facts.**
  - **Scripting of disinformation in a way to mislead others.**
  - **Conspiring with others to suppress the truth.**
  - **Coercing others to suppress the truth.**
  - **Allowing oneself to be coerced into suppressing the known truth – misplaced loyalty - lying by omission.**
  - **Inventing/fabricating allegations against eg. whistleblowers – ruined careers and lives.**
- Consequences of ‘lying’ which exemplifies ‘wilful maladministration’
  - Basically, morally wrong.
  - Lying can seriously harm others – ruined careers and lives, mental health issues.
  - Lying can have dangerous consequences – lessons not learned, if truth suppressed.
  - Those who know they are being lied about, feel betrayed and disrespected.
  - Those with the right to know the truth, are denied it.
  - Those who are lied to, cannot make informed choices or decisions.
  - If found out, those who lie cannot be trusted, either in or out with the organisation.
  - If leaders lie, gives green light to others & lying can become accepted organisational practice.
  - One lie usually necessitates many more.
  - Lying corrupts the liar and has repercussions for the organisation.

- Research tells us that public trust in being told the truth, is lowest for public organisations.

“When regard for the truth has been broken down or slightly weakened, all things will remain doubtful.”  
St. Augustine.

I urge the Committee to consider the self evident and compelling need to support this petition.

Dee McHaffie