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# Parliamentary Commissioner for Standards Annual Report 2002-03

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# Annual Report 2002-03

## **Foreword by the Parliamentary Commissioner for Standards**

This Report, the first of its type, covers the period 1 March 2002 to 31 March 2003. It represents a significant step forward in informing Members of Parliament and the public about how the system for maintaining high standards of conduct among Members is working. Its publication reflects the commitment of the House, the Committee on Standards and Privileges and myself to ensure openness about the system, including the processes for handling complaints, coupled with a proper degree of confidentiality about individual cases.

I took up post amid anxiety that the way in which my predecessor had left office had called into question public, and some parliamentary confidence in the arrangements for regulating standards. That concern prompted a study by the Committee on Standards in Public Life (currently known as the Wicks Committee) which found, after extensive study, that the fundamental structure of the present arrangements is sound. It also concluded that the overwhelming majority of MPs act honourably:

*We endorse the view that standards in the House of Commons are generally high, and that the overwhelming majority of Members seek to, and in practice do, uphold high standards of propriety. (Cm 5663, paragraph 2.7)*

The Committee nonetheless made a number of recommendations designed, in its view, to strengthen the current system, including the authority of the Committee on Standards and Privileges and the position of the Commissioner as the key independent element in that system. In its advice to the House, the Committee on Standards and Privileges recommended accepting most of those recommendations. Where it believed that a particular recommendation raised difficulties, it put forward alternatives, as did the House of Commons Commission on those recommendations which fell within its remit. This constructive approach was welcomed by the Wicks Committee. A fuller account of this process is given in section 2. On 26 June 2003, the House of Commons accepted the advice it had received. The result is a significant strengthening of its standards arrangements.

In its analysis, the Wicks Committee pointed out that the system for regulating standards of conduct among MPs is about more than the investigation of complaints. Its purpose also is to raise public confidence in Parliament itself by promoting a culture amongst Members which supports and sustains ethical behaviour. It is because I take a similar view that, since coming into office, I have been trying (with the active encouragement and support of the Committee on Standards and Privileges) to take a strategic approach to my task. This has meant putting more emphasis on prevention and education, in order to help avoid problems arising in the first place. An account of what this has meant in practice is in section 3.

Complaints will nonetheless be made and they need considering and, where appropriate, investigating. In this report I am happy to make more information on the handling of complaints publicly available than ever before. As the figures in section 4 show, the number of letters of complaint (referrals) received in my office over the period 1 April 2002 to 31 March 2003 was significantly down on the number in the previous year. Historically, the pattern of complaints has

fluctuated and it is generally unwise to place too much weight on a single year's experience. Moreover, just as the number of complaints can vary so can the complexity of each one.

As is understandable, it is the House of Commons' arrangements for regulating standards of conduct among its own Members which attract most public attention. But my small office is also responsible for overseeing the registers of interests relating to:

- Members' staff and research assistants;
- Parliamentary lobby journalists;
- All Party Parliamentary Groups.

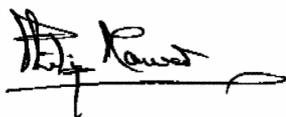
The nature of this work is described in section 5. Its importance is underlined by the fact that this year, I received for the first time two complaints about Members' staff. The outcome of these cases is described briefly in that section.

Although the number of letters of complaint fell in the past year, the work arising out of the Wicks Committee and the publication of the new Register of Members' Interests in December 2002 has meant that it has nonetheless been a busy one. I take this opportunity to pay tribute to my staff, who have coped successfully with that work as well as with the arrival of a new Commissioner, and to all those others (Members and staff of the House) who have given me their unfailing help and support.

To sum up, the past year has seen real progress in:

- strengthening the machinery for sustaining high standards of conduct among MPs;
- putting more effort into preventing problems before they arise;
- greater openness about how the system works.

There is more to do, but we are off to a good start.

A handwritten signature in black ink, appearing to read 'P. Mawer', with a long horizontal flourish extending to the right.

4 July 2003

Sir Philip Mawer

# 1 Regulating Standards of Conduct in Parliament

1.1 As this, the first annual report by a Parliamentary Commissioner for Standards, takes a broad view of the arrangements for regulating standards of conduct in the House of Commons, it seems appropriate to begin by describing the essential nature of those arrangements.

## Brief History

1.2 Like many other aspects of the United Kingdom political system, the arrangements for regulating standards in the House have developed over time and often in response to particular events. As long ago as 1695, the House of Commons passed a resolution declaring bribery of Members a high crime and misdemeanour. For centuries thereafter, misconduct by Members was handled ad hoc and often informally as it arose (which was relatively rarely). In 1858, the House passed a Resolution prohibiting advocacy for fee or reward and in 1947 a further resolution banning Members from entering contracts or agreements which restrict their freedom to act and speak, or require them to act as a representative of outside bodies.

1.3 A resolution of 1974 confirmed a long-standing convention that relevant pecuniary (i.e. financial) interests should be declared in the House and its Committees, and in communications with Ministers and officials. The first Register of Members' Interests was created in 1975 (following the Poulson case). Rules about registering or declaring interests developed gradually thereafter and were first codified and substantially revised in 1992.

1.4 The key features of the present arrangements came into being in 1995 following recommendations by the Committee on Standards in Public Life (at the time chaired by Lord Nolan) and the Select Committee of the House on Standards in Public Life. These recommendations were for:

- a new Code of Conduct for MPs;
- an improved Register of Members' Interests;
- an independent Parliamentary Commissioner for Standards;
- a strengthened Committee on Standards and Privileges.

The first Commissioner (Sir Gordon Downey) was appointed in 1995 and a Code of Conduct for Members was approved by the House and published the following year.

## Principles

1.5 The nature of the arrangements reflects a concern to ensure effective machinery for upholding high standards of conduct, containing a strong independent element, whilst preserving Parliament's control over its own affairs. For centuries, Parliament fought to establish its right to control its own affairs, free from interference by either the Monarch or the courts. This freedom was confirmed by Article 9 of the Bill of Rights of 1689 which provided:

*That the Freedom of Speech and Debates or Proceedings in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament.*

1.6 The House's right to discipline its own Members is a central element in this. As the Committee on Standards in Public Life observed in 1995 when recommending the present arrangements:

*The House collectively has a responsibility to safeguard the public interest against the possible misjudgements of individual Members, and it has the ability to do so. It also needs to reassert forcefully to the public that Members of Parliament, collectively and individually, have a sense of both the responsibilities and the dignity of the role with which they are entrusted. We believe that the House can do this itself, and that the package which we set out below will help to do so. It is a powerful and flexible mixture of disclosure and enforcement which will serve the public interest better than the inflexibility of statutory procedures. (Cm.2850-I, paragraph 59).*

1.7 The system for upholding standards of conduct in Parliament is often described as one of 'self-regulation'. This is, however, a substantial over-simplification. It is correct in the sense that the House of Commons retains the ultimate responsibility for deciding the shape of the system and for disposing of individual cases arising under it. It is incorrect, however, in so far as the decision whether to investigate a complaint, as well as a recommendation on findings, are the responsibility of an independent Commissioner. The reports of his investigations and the subsequent reports of the Committee on Standards and Privileges to the House are published. When the House needs to debate such reports, it invariably does so in public. The effectiveness of the arrangements as a whole is also open to periodic review by the independent Committee on Standards in Public Life.

1.8 In this context, it is worth noting that the immunity of an individual Member of Parliament from legal action in the courts is more limited than the immunity given to parliamentarians in many other legislative assemblies, being restricted to proceedings in Parliament (that is, broadly to participation in debates in the House, in Committees and other forms of proceeding). In other respects, an MP stands in the same position in relation to the law as does any other citizen.

1.9 Members, individually and collectively, are ultimately and regularly subject to the judgement of their fellow citizens through the ballot box. As past events have shown, this can be an effective final sanction.

## **The Key Elements in the System**

### **1 The Code of Conduct**

1.10 The Code of Conduct applies to Members' public life, not to their purely private and personal lives. It is relatively short, incorporating the substance of various resolutions on conduct passed by the House and the Nolan Committee's 'seven principles of public life'. Its purpose is "to assist Members in the discharge of their obligations to the House, their constituents and the public at large".

1.11 The text of the Code can be found at [www.parliament.uk/about\\_commons/pcfs\\_cfm](http://www.parliament.uk/about_commons/pcfs_cfm). In summary, it requires Members to:

- uphold the law and the Constitution;

- act always in the public, not their own personal interest, and to resolve at once any conflict between the two in favour of the former;
- strengthen confidence in Parliament, not bring the House or its Members into disrepute;
- observe the seven principles of public life, as set out in the first report of the Committee on Standards in Public Life;
- never accept a bribe, act as a paid advocate or misuse allowances or other payments;
- observe the House's Rules, e.g. as regards the registration and declaration of interests.

## 2 The Register of Members' Interests

1.12 The main purpose of the Register is:

*to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament.*

1.13 The appearance of an entry in the Register simply constitutes a record of a registrable interest. It implies no element of judgement on the substance of the interest. The purpose of registration is openness, to give other Members and the public the opportunity to know about interests which may be thought to influence a Member's actions in his or her parliamentary capacity, and to make their own assessment of their significance. The Rules on registration—which were comprehensively revised in May 2002 (see section 2)—lay down, essentially as an administrative convenience, 10 categories of interest to be registered. They also place Members under a more general obligation to keep the overall purpose of the Register in mind when registering or declaring an interest.

1.14 The obligation to *declare* relevant interests in a debate or committee proceeding is not restricted to those interests which are the subject of an entry in the Register. It also includes interests which have been held in the recent past or of which the Member has a reasonable expectation in the future, and Members are advised to declare certain non-registrable interests where relevant.

1.15 The Register is compiled afresh at the start of every Parliament or, as last year (see section 2) following a major revision of the Rules. One bound, printed edition is published every year and the text is also available on the web-site at [www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm) or at the House for Members or the public to study. In addition, the Register is updated every 6–8 weeks to include fresh information supplied by Members. The text of these updated editions is also published on the web-site, and is available, by appointment, for inspection in hard copy form.

## 3 The Parliamentary Commissioner for Standards

1.16 The Commissioner is the independent element in the system for regulating standards in the House of Commons. Whilst he is an officer appointed pursuant to a Resolution of the House, he is expected to act independently in discharging his responsibilities. The duties of the Commissioner are embodied in Standing Order No.150. The main duties are:

- overseeing the maintenance of the Register of Members' Interests and the other registers of interests for Members' staff, journalists and All Party Groups;

- with the Registrar of Members' Interests, advising on the registration and declaration of interests;
- advising the Committee on Standards and Privileges on the interpretation of the Code of Conduct;
- monitoring the operation of the Code and registers and making recommendations to the Committee thereon;
- receiving, investigating and reporting to the Committee on complaints against Members.

The Commissioner is now appointed for a fixed, non-renewable term and is not liable to dismissal except on a resolution of the House.

1.17 A number of recommendations have been made by the Committee on Standards in Public Life for clarifying and strengthening the status and powers of the Commissioner. These are discussed in section 2.

#### **4 The Committee on Standards and Privileges**

1.18 Standing Order No.149 places on the Committee on Standards and Privileges the responsibility:

- to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; and to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; and
- to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to the committee's attention by the Commissioner; and to recommend any modifications to such code of conduct as may from time to time appear to be necessary.

The Committee is also responsible for considering specific matters relating to privileges referred to it by the House.

### **Does the System Work?**

1.19 The adequacy of these arrangements has been twice reviewed by the Committee on Standards in Public Life during the 8 years since they came into being. In its Sixth Report in January 2000, the Committee expressed confidence that there had been an improvement in the standards applying to Members and stated:

*We have no doubt that the establishment of [the office of Parliamentary Commissioner for Standards] has made a significant contribution to the promotion of, and public's confidence in, standards in the House of Commons. (Cm 4557–1, paragraph 3.2).*

More recently, the arrangements were the subject of further extensive scrutiny by the Committee. Their findings and recommendations are discussed in the next section of this report.

## 2 Strengthening the System

### **The Committee on Standards in Public Life**

2.1 The most significant event of the past year was the publication on 21 November 2002 of the Eighth Report of the Committee on Standards in Public Life, following its review of Standards of Conduct in the House of Commons (Cm 5663). This independent Committee, now chaired by Sir Nigel Wicks, reporting to the Prime Minister, had announced its decision to review the arrangements for regulating standards in the House in December 2001, following some disquiet in Parliament and more widely about the decision not to re-appoint my predecessor automatically for a further term of office.

2.2 The Wicks Committee published a consultation paper in February 2002 setting out the principal areas on which it intended to focus, and invited written submissions. In my own submission, I emphasised the need to ensure that the arrangements in place carried the confidence of both the public and Members of the House. I stressed the value of arrangements embodying an important independent element in the form of the Commissioner but of which the House itself felt ownership. I urged a number of steps designed to strengthen the independent role of the Commissioner, within an overall framework of accountability to the House, and through the House, to the public. And I set out my own intention, working with the Committee on Standards and Privileges of the House, to seek to simplify and clarify expectations of Members, to build up the preventive work of my office and to continue to ensure effective yet fair investigation of complaints against Members.

2.3 The Chairman of the Committee on Standards and Privileges, the Rt. Hon. Sir George Young MP, also made written and oral submissions to the Committee, as did the Leader of the House of Commons and the Clerk of the House, as well as a number of Members and others, including my two predecessors. I appeared before the Committee to give oral evidence on 13 May and again on 18 September (on this latter occasion in company with the Chairman of the Committee on Standards and Privileges). Transcripts of all the evidence are available on the web-site of the Committee on Standards in Public Life [www.public-standards.gov.uk](http://www.public-standards.gov.uk)

2.4 At the end of extensive gathering of information and analysis the Committee concluded:

*We endorse the view that standards in the House of Commons are generally high, and that the overwhelming majority of Members seek to and in practice do, uphold high standards of propriety. (Cm 5663, paragraph 2.7)*

The Committee went on:

*We believe, along with many of our witnesses, that the fundamental structure of the current system for regulating standards of conduct in the House of Commons is sound. However, it requires some considerable strengthening of the system's components to meet the areas of concern ... and to provide effective regulation of standards. (Cm 5663, paragraph 3.23)*

2.5 The recommendations of the Committee were designed to provide such strengthening. They focussed primarily on buttressing the independence of the Commissioner and on underpinning the impartial and authoritative role of the Committee on Standards and Privileges. They included, for example, provision for the appointment of the Commissioner for a non-

renewable term of between 5 and 7 years and for an even balance of representation from the Government and Opposition political parties in the Committee's membership.

2.6 The Chairman of the Committee on Standards and Privileges and I welcomed the report immediately it was published. Both the Committee, in its Second Report of the current session (HC 403), and the House of Commons Commission<sup>1</sup> subsequently made what the Wicks Committee itself characterised as a "constructive" response to the report. In most cases, the Committee on Standards and Privileges advised the House to accept the Wicks Committee's recommendations. In the few cases where, for good reason, it did not feel able to do this, it put forward alternative proposals. Sir Nigel Wicks wrote to the Speaker and Sir George Young on behalf of his Committee giving the Committee's views on the responses made. He stated that the Committee believed that the recommendations of the Committee on Standards and Privileges "*will be a significant improvement on the current arrangements*".<sup>2</sup>

2.7 On 26 June 2003, the House debated the advice it had received from the Committee on Standards and Privileges and the House of Commons Commission on the Wicks Committee's recommendations. The advice was accepted with support from all sides of the House. A detailed summary of the changes agreed is for next year's report. The result is a significant strengthening of the existing arrangements for sustaining high standards of conduct in the House and a boost to public confidence in those arrangements.

## **Simplifying and Clarifying the Rules for Members**

2.8 On 14 May 2002 the House of Commons approved a new Code of Conduct and Guide to the Rules for Members. The revision was the result of recommendations by the Committee on Standards and Privileges in two reports (Fifth Report, Session 2000–01, HC 267 and Ninth Report, session 2001–02, HC 763).

2.9 The change to the Code was minimal. Its effect was to clarify that the Code applies to Members in all aspects of their public life, not in their purely private and personal lives. The Committee and I plan to begin further work on a more comprehensive review of the Code during the coming year.

2.10 The changes to the Guide to the Rules were far more extensive. Principal among them was a narrowing of the 'advocacy rule', the rule which had forbidden Members from initiating any parliamentary proceeding which related specifically and directly to the affairs of a body (or of a wider group) in which they had (or expected to have) a pecuniary interest. This had been found too restrictive, in that it was preventing knowledgeable Members from contributing effectively to the proceedings of the House. Following a process of consultation, the Committee advised the House to adopt a proposal by the Committee on Standards in Public Life that an 'exclusive benefit' rule be substituted for the existing rule. This forbids a Member from seeking to confer benefit exclusively on a body in which he or she has (or expects to have) a pecuniary interest. So far, the operation of the new rule has proved more satisfactory, both in terms of the contributions to debate and of the relative ease of its administration.

2.11 The Committee on Standards and Privileges also took the opportunity of the revision to clarify and simplify other Rules relating to the registration and declaration of interests, without

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<sup>1</sup> HC 422 (2002–03)

<sup>2</sup> HC 516 (2002–03)

losing rigour. So, for example, new, more realistic thresholds were set for registering gifts and benefits, which were expressed in terms of percentages of the parliamentary salary. Various of these thresholds were aligned and, for the first time, a monetary value (again linked to a percentage of the parliamentary salary) was set for the registration of property. The threshold for registering political donations was brought into line with the figure set by the Electoral Commission. Partners were included as well as spouses in a number of categories. And overseas trusts and share options were brought within the category of shareholdings to be registered. The Committee also recommended the exclusion from the Register of most unremunerated interests, and that advice has been followed.

2.12 So extensive were the changes in the Rules that the Committee on Standards and Privileges decided that the most sensible course was to compile a completely new Register of Members' Interests. This is normally only done at the beginning of each Parliament. My office arranged four seminars to brief Members on the new requirements. We distributed an entirely revised Register form to all Members and subsequently advised many Members individually on its completion. Each Member was then sent a draft of their own Register entry for checking, before the new Register—accurate as at 26 November 2002—was printed and published on 5 December. The revision was a major logistical exercise, made more complicated on this occasion by the need to address several novel points in interpreting and applying the revised Rules. Thanks are due particularly to the Registrar and to my Personal Assistant for their work in the Register's accurate and timely production.

2.13 The task of revising the Register is, however, ongoing. Members' circumstances change. They are required to notify the Registrar of a registrable event within 4 weeks of it happening. Fresh editions of the Register are therefore produced every 6–8 weeks and posted on the internet. A new printed edition of the Register is produced each year, and also posted on the internet as well as being available in hard copy. In this way, Members, the public and the press have access to a regularly updated record of Members' registrable interests.

## **Codifying Procedures**

2.14 A third way in which the arrangements for regulating standards of conduct among Members have been strengthened during the year under review has been by codifying, and in the process improving, the procedures followed in handling complaints against Members. Hitherto, the principal statement of practice in this respect was a memorandum which my predecessor had produced at the request of the Committee on Standards and Privileges and which the Committee published as an appendix to its Ninth Report of Session 1999–2000 (HC 403). Following my appointment, and with the encouragement of the Committee, I took the opportunity to review these procedures and to set them out in more comprehensive form, in a series of guidance notes which can now be made available at the start of any complaint investigation to the complainant, the Member who is the subject of the complaint and to any witnesses. Copies of these notes have also been made available to all Members and published on the parliamentary web-site.

2.15 The production of these notes—which I submitted for approval by the Committee on Standards and Privileges—gave both the Committee and me an opportunity to clarify and in some respects modify existing arrangements. One example of this, affecting the procedures followed by the Committee, is that after I have submitted my report on a complaint to the Committee, its Clerk now lets the Member concerned have a copy of that report shortly before the Committee first meets to consider it. The Member thus has opportunity, if he or she so

wishes, to let the Committee have any written comments on the report and to offer to give oral evidence. The notes also clarify that the role of the Commissioner as an investigator is to report the facts as he has found them and, wherever possible, offer his own opinion on whether the Code has been breached.

2.16 The Committee on Standards and Privileges and I intend to keep the way existing procedures operate under regular review, and to clarify and improve them wherever possible. As the year under review ended, work was under way, for example, to define how the Committee and the Commissioner deal with frivolous or vexatious complaints, on which a further procedural guidance note is shortly expected to be issued.

## 3 Emphasising Prevention

3.1 Many people's perception of the current arrangements for regulating the conduct of Members of Parliament is "complaints-dominated". The tone is set by the headlines attracted by the latest report on a particular Member's alleged misconduct. Whilst it is important to have fair and effective arrangements for investigating complaints against Members, it is at least as important to try to avoid complaints arising in the first place. Prevention is, here as elsewhere, preferable to cure.

3.2 Ensuring the provision of advice on conduct issues to individual Members has been an important part of the role of successive Commissioners. In practical terms, most issues to do with the registration or declaration of interests are handled by either the Registrar of Members' Interests or the Commissioner's staff. More complicated matters are, however, referred to the Commissioner. If they raise an issue of general application, he may in turn seek a ruling on them from the Committee on Standards and Privileges.

3.3 The provision of advice to Members is a large part of the day-to-day work of the Commissioner's office. During a typical three-week period in March 2003, for example, my office dealt with 182 items of correspondence and 132 telephone calls, many of which involved requests for advice from Members.

3.4 Difficulties tend to arise when advice is not sought or, if sought, is not taken. The most helpful piece of advice any Commissioner can give a Member is:

- If in doubt, seek advice from the Registrar or the Commissioner's office.

The Committee on Standards and Privileges has made clear that it would never criticise a Member for acting on advice sought and given in good faith.

### **Forming a Strategy for Prevention**

3.5 Although providing advice has always been a key function of the Commissioner, it has not perhaps hitherto been seen as a core part in an overall strategy for trying to prevent situations arising that may give rise to complaints. Together with my colleagues—and with the support of the Committee on Standards and Privileges—I have been trying over the last year to develop such a strategy, with the following elements in addition to the provision of tailored advice to individual Members.

#### **1 Simplifying and Clarifying what is expected of Members**

3.6 There is a danger that when rules are laid down, they accumulate layers of complexity and interpretation as individual cases are considered over time. As already described in Section 2, one of the thrusts of the revision of the Rules for Members during the past year has been to simplify and clarify what is expected of Members and to focus the Register of Members' Interests once more on its key purpose. This is an ongoing task, to be borne in mind during each successive revision of the Code and the Rules.

## **2 Providing Training**

3.7 The revision of the Rules in May 2002 provided an opportunity to mount a series of seminars for all Members to explain the main changes to them. Although the turn-out for these events was lower than I had hoped for, informal feed-back suggested that they had been found helpful by Members who attended.

3.8 In the past, the office of the Commissioner has contributed to induction arrangements for new Members entering the House following a General Election. It is clear that, as well as continuing to make such a contribution in future, we shall need to ensure the provision of occasional training opportunities which are open to existing Members as well as to new ones. The Wicks Committee has emphasised the importance of training and recommended that the Commissioner periodically review, in conjunction with the party Whips and the House authorities, the effectiveness of the provision for training and guidance on standards of conduct. This is a task which I expect to undertake in the coming year.

3.9 I believe that it will be important to involve the staff of Members, as well as Members themselves, in these training arrangements. Members rely heavily on their secretaries and research assistants to help them cope with the myriad demands of their busy lives. A staff well-informed on conduct issues is likely to be an important tool in helping ensure Members' compliance with standards requirements.

## **3 Offering Written Advice and Guidance**

3.10 I have already stressed the importance of offering Members individual guidance and advice on issues raised by their own particular circumstances. But there are also many issues which are raised regularly by Members with my office, or which arise from the Committee on Standards and Privileges's consideration of particular cases. Working with the Committee and the Registrar, I have therefore embarked on the provision of occasional advice notes for Members. The first of these, issued in January 2003, concerned the circumstances in which Members should declare an interest in debates on Equitable Life, a matter of immediate concern to many Members. As the year covered by this report ended, we were finalising a note containing answers to many questions which are commonly asked of my office by Members. We were also making plans to distribute a specially designed folder to all Members, in which they can keep standards-related material, including the Code of Conduct and Guide to the Rules for Members, the guidance notes on procedural matters referred to in Section 2 of this report and the advice notes I have mentioned.

3.11 I hope that, over time, this will build up into a useful compendium of reference material for Members on standards matters. It is important to emphasise that this material, (which is also available to Members and their staff on the parliamentary intranet) does not represent more regulation but rather a distillation of advice on existing practice.

## **4 Working with Other Agencies**

3.12 One of the difficulties facing Members of Parliament is the increasing complexity of the regulatory environment in which they find themselves. All Members are not only subject to the Code and Rules approved by the House, but also to the requirements agreed by the Speaker—relating, for example, to the payment of parliamentary allowances or the use of the facilities of the House—which are administered by other Departments of the House such as the Finance and Administration Department or the Department of the Serjeant at Arms. Since the coming into force of the Political Parties, Elections and Referendums Act in 2000, Members have also been

subject to the supervision of the Electoral Commission in respect of the registration of political donations. Members who are Ministers of the Crown are also subject to the Code of Conduct and Guidance on Procedures for Ministers (the Ministerial Code) approved by the Prime Minister.

3.13 There is a need to keep the cost/benefit of these sometimes overlapping regulatory regimes under regular review. This is a matter for the Government and for the House itself. Those appointed to administer these regimes need to maintain regular liaison to try to simplify and align requirements wherever possible and to avoid unnecessary duplication or conflicting interpretations of similar requirements.

3.14 With this in mind, my office is seeking to work increasingly closely with the various bodies I have already mentioned. The Electoral Commission participated in the seminars put on for Members last year and we plan to include relevant information prepared by them in the folder of standards material we are preparing for Members. There is, however, more work to be done in seeking to simplify and align the House's requirements and those of the Commission. We will not be able to achieve complete alignment, because of the different purposes of the two regimes but, as I made clear in my submission to the Commission's interim review of the 2000 Act, there is still, in my view, scope for improvement.

3.15 This may be an appropriate point at which to mention that the Registrar and I also maintain regular contact with our opposite numbers in the House of Lords, the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly and the Oireachtas, as well as with colleagues in the Standards Board for England (which is responsible for the oversight of conduct issues in local government in England). Although there are significant differences in regulatory framework, there is much that we can learn from each other's practice and, if we can also use what we learn to reduce the complexity of regulatory requirements, that will be a valuable outcome for all.

## 4 Investigating Complaints

4.1 However hard we work at trying to avoid the necessity for complaints, effective arrangements need to be in place for handling them when they do arise. Complaints that Members of Parliament have breached the Code of Conduct or the Rules on the registration and declaration of interests may be sent to me by other Members of the House or by members of the public. For me to consider them, they must be submitted in writing, be signed and with sufficient supporting evidence to warrant at least preliminary inquiry. A number of would-be complainants make initial contact through e-mail. If so, they are always advised to write forwarding their evidence so that their complaint may be considered.

4.2 On receiving a complaint, the first thing I do is to check whether it falls within my terms of reference. Many complaints do not. The largest category of these is complaints that a Member has not handled a constituent's case as the constituent would have liked. How to handle a constituent's case is a matter of judgement for the Member concerned and, if a constituent is unhappy on this score, the remedy is for them to vote against the Member at the next General Election.

4.3 Other types of complaint which fall outside my terms of reference include those in which the complainant takes issue with something the Member concerned has said. An MP's views on the case for war in the Middle East, for example, may not be in tune with the thinking of all of his or her constituents but that too is a matter to be resolved through the ballot box.

4.4 A further restriction is that I may not inquire into the actions of a Member who is a Minister, where those actions are taken purely in his or her Ministerial capacity. Such matters are subject to a separate Code, promulgated by the Prime Minister. The Committee on Standards in Public Life has recently put forward in its Ninth Report (Cm 5775), published in April 2003, proposals for strengthening the advisory and investigative arrangements in respect of these matters.

4.5 Sometimes a complaint may, as a matter of practice, more appropriately be investigated by another department of the House or external agency. Suggestions that a Member has misused stationery supplied by the House are, for example, usually investigated by the Serjeant at Arms. More obviously, a complaint alleging criminal activity by a Member would be for the police to investigate. In such cases I will either suggest that the complainant themselves passes on the complaint or do so myself.

4.6 Where a complaint is within my terms of reference and supported by evidence, my next step is to seek an explanation from the Member concerned. What is asked of the Member is a full and truthful account of the matters in question. This may enable me to dismiss the complaint or, in cases where the matter raised is minor, to agree suitable remedial action with the Member under what is known as the rectification procedure. (A brief description of this procedure is at Appendix 1.) An example of the use of the latter during the past year concerned a Member who failed to declare when speaking about hunting that, according to the Register of Members' Interests then current, a pro-hunting group was a client of his parliamentary consultancy. In fact, the group had ceased to be a client some months previously. Nonetheless, this relevant past interest should have been declared. When the Member concerned was alerted

to the point, he immediately expressed regret for his oversight and subsequently apologised publicly to the House. If a minor infringement involves a failure to Register, a special entry may be made with an explanation that this has been done to remedy an omission.

4.7 It may be, however, that the Member's response does not enable me to resolve the complaint immediately. In this case, I proceed to a full investigation. In some cases, the boundary between preliminary inquiry and formal investigation is clear cut. In others, it may be blurred, in the sense that inquiries of people other than the Member may be required before I can judge whether a particular complaint has substance.

4.8 It is not necessary for me to rehearse here the procedure I follow in conducting an inquiry. An account of this is already publicly available via the parliamentary web-site. However, it is relevant to point out that I seek to be scrupulously fair throughout. Thus, for example, I share with the Member concerned the draft of my findings of fact and seek to take into account any comments he or she may make before finalising my report to the Committee on Standards and Privileges.

### Complaints in 2002–03

4.9 During the 13½ month period from 14 February 2002 to 31 March 2003, a total of 90 matters of complaint were referred to my office either by Members of the House or members of the public. 9 of these 90 concerned similar allegations about one Member. The table below gives a breakdown on a quarterly basis of the number of referrals received and shows how they were then handled.

	Feb–Mar 2002	April–June 2002	July–Sept 2002	Oct–Dec 2002	Jan–Mar 2003
All referrals received	23	14	13	22 <sup>2</sup>	18
Specific complaint against a named Member	18	9	6 <sup>1</sup>	19 <sup>2</sup>	18
Not proceeded with: reason (a) outside remit; (b) other	(a) 11 (b) 1	(a) 5 (b) 3	(a) 3 (b) 1	(a) 3 (b) 3	(a) 9 (b) 1
Complaint subject of preliminary inquiry then dismissed	4	0	2	3	5
Complaint dealt with by rectification procedure/ apology to the House	0	0	0	1	0
Complaint subject of further investigation	2	1	0	9 <sup>2</sup>	1
Complaint subject of a report to Committee on Standards and Privileges <sup>3</sup>	2	1	0	9 <sup>2</sup>	0
Complaint under inquiry at end of reporting period	0	0	0	2	3

<sup>1</sup> Includes 1 complaint against MP's researcher

<sup>2</sup> Includes 9 separate letters of complaint against a single Member

<sup>3</sup> Reports have been published on all these complaints

It can be seen from this table that of the 90 referrals, a significant number (20) did not get past the first fence in that they did not contain a specific complaint against a named Member. Of the remaining 70, over half (40) were not proceeded with, either because they fell outside my remit (for the sort of reasons described in paragraphs 4.2–4.5 above) or (in 9 of the 40 cases) for other reasons, such as that the complainant did not provide sufficient evidence to begin to substantiate their complaint. 14 of the remaining 30 referrals were dismissed after preliminary inquiry and another one was resolved by an apology to the House (in the case of a minor failure to declare a relevant interest). Of the remaining 15 referrals (9 of which concerned allegations against the same Member), 3 were still under inquiry at the end of March 2003 and the remainder have been the subject of reports to the Committee on Standards and Privileges.

4.10 How does this pattern compare with that of previous years? Unfortunately, comprehensive statistics on the same basis have not routinely been collected hitherto, so a direct comparison with earlier years is not possible. However, those limited figures which are available suggest that the overall number of referrals (letters of complaint) has fallen over the last three years, from 137 between 1 April 2000 and 31 March 2001, to 118 between 1 April 2001 and 31 March 2002, to 67 between 1 April 2002 and 31 March 2003. The figures also demonstrate that the number of referrals can fluctuate considerably from quarter to quarter within any one year. And, just as the volume of complaints can vary, so too can the complexity and seriousness of the individual cases raised.

4.11 As the arrangements for collecting comprehensive statistics which I have implemented bed down, it will be possible over time to assess not only fluctuations in the pattern of complaints but in their outcome. I hope this will provide a useful basis on which, in future years, Members and the public will be able to get a better feel of how the House's standards arrangements are working in practice.

4.12 The subject matter of complaints also varies. Although no firm figures have been kept of this, impressionistically, in the initial days of the present standards arrangements, the focus was on allegations that Members had abused their office by, for example, tabling questions in return for reward. Attention then shifted to complaints that Members had failed to register or declare a relevant interest. In recent times, there has perhaps been more of a focus on complaints alleging the improper use of parliamentary allowances.

## **Reports to the Committee in 2002–03**

4.13 I report to every meeting of the Committee on Standards and Privileges on the number of complaints (referrals) I have received since the last meeting and what has happened to each one, as well as on the progress of any outstanding inquiries. By this means, the Committee is able to keep under regular review both the way in which inquiries are proceeding and the wider work of my office.

4.14 I also report individually on those cases of complaint which seem to me to merit full investigation. During the period 1 April 2002–31 March 2003, I submitted 4 such memoranda. As all of these were published as an appendix to a report by the Committee, it is not necessary to report their substance here.

4.15 Individual cases often give rise to general issues on which it is appropriate for the Committee to pronounce. So in relation to a complaint made against a former Member of the House, the Committee on Standards and Privileges made clear that where a complaint raises a

question of parliamentary privilege, it would expect that aspect to have precedence over any issue of conduct. Where a Member wished to raise a matter which could be handled either as a privilege or a standards issue, he or she should raise it as a question of privilege with the Speaker in writing as soon as reasonably practicable. If the matter is then dealt with as a question of privilege, the Committee would not normally expect the Member subsequently to make precisely the same matter the subject of a complaint to me<sup>3</sup>.

4.16 In 2 other cases relating to allowances claims made by Members, the Committee was able to welcome steps taken to clarify the information required of Members in support of a claim<sup>4</sup>. It also endorsed proposals I made for strengthening the system for ensuring the accuracy of allowance claims by Members, concluding:

*We agree that, whatever the precise solutions adopted, at the end of the day, the House must be able to show that the requirements for auditing which it imposes on itself are no less effective than those it would expect of others responsible for the expenditure of public money.*<sup>5</sup>

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<sup>3</sup> Tenth Report, Session 2001–02 (HC 1147)

<sup>4</sup> First Report, Session 2002–03 (HC 195)

<sup>5</sup> Third Report, Session 2002–03 (HC 435)

## 5 The Other Registers

### Brief History of the Registers

5.1 Ten years after the introduction of the Register of Members' Interests in 1974, the Select Committee on Members' Interests (a predecessor of the Committee on Standards and Privileges) conducted an inquiry into concerns about parliamentary lobbying and recommended that:

*when they are approached, Members of the House must be able readily to identify the source and true nature of the approach. Equally the full purposes of those with access to Parliament should be known. We are convinced that greater openness would now be beneficial in certain areas.<sup>6</sup>*

5.2 To meet those concerns the Committee concluded that registers should be set up for Members' staff, journalists and all-party groups. The Committee's recommendations were subsequently agreed in a Resolution made by the House on 17 December 1985 and the first registers were published in 1986. The form and substance of each register is detailed in the sections below.

#### 1 Members' Staff Register

5.3 Those holding a parliamentary pass as a Member's secretary or research assistant are required to register any occupation or employment for which they receive over £275 (half of one per cent of a Member's salary) from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass. They also have to register any tangible gift (e.g. glassware) and any other benefit (e.g. hospitality, service or facilities provided) which they receive, if the value of the gift or benefit exceeds £275 and relates in any way to their work in Parliament.

5.4 At any given time there are about 1400 members of staff on the register and turnover is high. Of the 1456 staff on the register as at 31 March 2003, 361 had registered interests.

#### 2 Journalists' Register

5.5 Those holding a pass as a lobby journalist accredited to the Parliamentary Press Gallery or for parliamentary broadcasting are required to register any occupation or employment for which they receive over £550 from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.

5.6 At any given time there are about 400 journalists on the register and turnover is low. Of the 398 journalists on the register as at 31 March 2003, 60 had registered interests.

#### 3 All-Party Groups' Register

5.7 The membership of all-party groups consists mainly of backbench Members of the House of Commons and Lords but may also include ministers and non-parliamentarians. There

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<sup>6</sup> First Report, Session 1984 - 85 (HC 261)

are two types of groups: subject groups (relating to a particular topic, e.g. forestry) and country groups (relating to a particular country or region).

5.8 Inclusion on the Register of All-Party Groups is compulsory for any group which includes Members of the Commons from more than one party and has at least one officer who is from the Commons. Such groups are required to register the group's title and the names of its officers. Financial and material benefits received by the group as a whole must also be registered, where the group receives during a calendar year one or more benefits whose total value is £550 or more from the same source. Lastly, the group must register the name and paid employment or occupation outside Parliament of any staff servicing the group who hold a parliamentary pass, if that occupation or employment is advantaged by the passholder's privileged access to Parliament.

5.9 Groups that qualify for inclusion on the Register of All-Party Groups may also apply for inclusion on the Approved List. Both are compiled by my office. By being on the Approved List, a group qualifies for certain entitlements, largely to do with use of the House's facilities. Additional rules apply to approved groups. For example, the former must hold annual elections for their officers and must also register the names of a minimum of ten Members from the Government party and ten from the Opposition parties. All but 6 groups are on both the Register and the Approved List.

5.10 The number of registered groups as at 31 March 2003 was 356, of which 101 were country groups, 255 were subject groups, and 211 had registered financial or material benefits.

#### **4: Access to the Registers**

5.11 The three registers are not published in hard copy form. However, a copy of the most recent edition can be viewed on the standards section of the parliamentary website at: [www.parliament.uk/about\\_commons.pcfs.cfm](http://www.parliament.uk/about_commons.pcfs.cfm) and a paper copy is held at the House of Commons where anyone may inspect it. An updated edition of all three registers is usually issued each month when the House is sitting.

#### **5 Complaints**

5.12 Until recently, complaints about a named member of staff, journalist or all-party group were virtually non-existent and such as arose were capable of being dealt with informally by the Registrar. However, in the past year I received two formal complaints in connection with these registers. Both complaints were about Members' staff and are detailed below.

5.13 The first complaint alleged that a Member's researcher had failed to register that he was a councillor and a director of a publishing company. I upheld the first of these allegations and recommended that the rectification procedure applied to Members in cases of late registration should, for the first time, also be applied by analogy to Members' staff. The Committee on Standards and Privileges subsequently agreed this course of action. I did not uphold the second allegation because the directorship was unremunerated and was therefore exempt from registration.

5.14 The second complaint alleged that a Member's researcher had failed to register remunerated posts he held with several companies and also gifts and benefits he had received. It was further alleged that the researcher had abused the privileged access to Parliament he was afforded by his pass by using the latter to bring clients of his into the House of Commons in

order to introduce them to Members. Having investigated the allegations, I found no evidence to support them (there being no evidence, for example, that the posts in question were remunerated) and so no part of the complaint was upheld.

5.15 In both cases I reported my findings to the Committee on Standards and Privileges. Since the only proven breach of the rules was a relatively minor one, the Committee did not publish a report on either complaint.

## 6 Ensuring Accountability

6.1 Difficult questions surround the release of information about the work of my office. On the one hand, both Members of Parliament and the public need information on the basis of which to assess the effectiveness of the House's standards arrangements. On the other, the rights of individuals to a fair and confidential handling of often sensitive information about them must be observed.

6.2 The difficulty of striking the right balance has often focussed on uncertainty about the proper relationship between the Commissioner's office and the press. In its Eighth Report, the Committee on Standards in Public Life said:

*The relationship between the Commissioner and the media should be more formally defined. The existence of such a published strategy statement, which would set out what is to be expected when enquiries are made of the Commissioner, would give the clarity which has hitherto been lacking. (Cm 5663, paragraph 8.56)*

This recommendation reflected concern that the ground rules about the publication of information on the House's standards arrangements—and particularly those concerning the handling of complaints—have in the past been unclear to Members, the Commissioner and the press. This has potentially left all concerned in a position of uncertainty and vulnerability.

6.3 I rapidly became aware of this upon my appointment, and so began work with the Committee on Standards and Privileges to establish an agreed policy on the disclosure of information. Our approach was based on the assumption that we should make available as much information as possible about the way the present system works, whilst preserving confidentiality during the investigation and consideration of individual cases.

6.4 Behind this approach lies the concern of both the Committee and myself, not only to establish clarity, but to encourage public confidence in the House's standards arrangements by, among other things, doing as much as we can to explain them. We are also anxious to ensure the accountability of those arrangements to both the House and the public.

6.5 The resulting statement of policy was published on 10 April 2003, just after the period formally covered by this report ended. Nonetheless, since the document was prepared and agreed in the year under review, I have reproduced the text of it at Appendix 2. Summing up the document, the Chairman of the Committee on Standards and Privileges said when it was published:

*We intend to be as open as we can about what we are doing to encourage high standards, and about how complaints are handled. We shall preserve confidentiality during the investigation of individual complaints—in the interest both of the complainant and of a fair and effective investigation of the Member concerned—whilst continuing to publish reports on the outcome of those investigations which all may study.*

6.6 The publication of the present report is part of this approach. So too is the publication of the various notes on procedure mentioned earlier in this report, and the creation of a section

within the parliamentary web-site dedicated to standards matters. This contains the texts of the Code of Conduct and Guide to the Rules, the various Registers of Interests, the procedural notes, and relevant reports and press notices. In this way, more information is being made available more systematically to Members and the public than ever before.

6.7 The Committee and I also took the opportunity to revise our procedures in relation to complaints, again in the direction of greater openness. Hitherto, my office would neither confirm nor deny when a complaint had been received. My office will now be prepared, as soon as the complainant and the Member concerned have been notified, to make clear in response to inquiries both when I have received a complaint and when I have either dismissed it or reported on it to the Committee.

6.8 In addition to these methods of informing the public and Members about the way in which standards arrangements are working, the Registrar of Members' Interests and I undertake a regular programme of talks on the subject to a wide variety of different groups. Many of these include overseas parliamentarians, particularly from the Commonwealth or parts of the former Soviet Union. During the months covered by this report, I addressed 11 such groups, including parliamentarians from Azerbaijan, Bosnia-Herzegovina, Ghana, Hungary, Lithuania, Romania and Slovakia. I also met, to discuss our arrangements, a number of individual overseas visitors from Australia, Japan, Malawi, Papua New Guinea and the United States, as well as academics and industrialists from the UK (the latter under the auspices of the Industry and Parliament Trust). In November 2002, I was privileged to be able to pay a short visit to the United States Congress to learn how standards matters are regulated there. These are all valuable opportunities, not only to explain what we are doing, but to learn from the experience of others and to assess whether any of it might be applied with benefit in our own situation.

## 7 Resourcing the Work

7.1 On 21 March 2003, Mr Tony Wright (the Member for Cannock Chase) asked the House of Commons Commission what the cost of the office of the Parliamentary Commissioner for Standards had been, including staff, in each session since 1996–97. The table below sets out the available figures, by financial year, which have been updated and extended to cover the financial year 2002–03:

### Cost of the office of the Parliamentary Commissioner for Standards 1996–97 to 2002–03

	1996–97	1997–98	1998–99	1999–2000	2000–01	2001–02	2002–03	
Staffing etc	149,269	222,902	230,450	267,070	228,994	293,810	273,101	<b>1,665,596</b>
Running costs	2,137	1,137	4,178	1,496	6,103	2,003	406	<b>17,460</b>
	<b>151,406</b>	<b>224,039</b>	<b>234,628</b>	<b>268,566</b>	<b>235,097</b>	<b>295,813</b>	<b>273,507</b>	<b>1,683,055</b>

As Sir Archy Kirkwood, replying on behalf of the Commission, made clear, the bulk of the readily identifiable costs of the office are direct staffing costs. Most of the general office running costs, including accommodation and IT/IS support, are absorbed by other parts of the House administration and cannot easily be disaggregated.

7.2 Reporting to the House over a year earlier, the Commission had confirmed, in response to concerns about the adequacy of the resourcing of my office, that it would make available whatever resources were judged necessary for me to do my job.<sup>7</sup> In line with this commitment, a review of the staffing of my office was concluded in May 2002. The report (the full text of which is available on the Parliamentary web-site) recommended that a temporary secretarial post should be made permanent, and also proposed the creation of a new post to support the Commissioner in the investigation of complaints. After discussion with the Chairman of the Committee on Standards and Privileges and myself, the Commission approved these recommendations, subject to a further brief review being undertaken 12 months later to verify the resources required.

7.3 In the event, the reduction in the number of complaints (referred to in Section 4) meant that I did not find it necessary to fill the investigative assistant post. This meant that during the year under review, (since the time of my predecessor), the staffing of my office has consisted of the Registrar of Members' Interests (who spends some 20% of her time on duties not related to standards work), my Personal Assistant, the Assistant Registrar and a full-time Secretary. On the other hand, the average length of my own working week increased after the first 6 months of my appointment from 3 to 4 days a week, mainly as a result of the additional work of a policy character resulting from the follow-up to the Wicks Report, and the greater emphasis being put on prevention and advice to Members. Again, the Commission proved itself willing to respond flexibly to this development.

<sup>7</sup> HC 598 (2001–02)

7.4 I am grateful to the Commission for confirming its readiness to honour its commitment to resource the work at the level required. It cannot be said, on the evidence of the last 12 months, that the work is being impeded by a lack of necessary resources.

## 8 Conclusion and Forward Look

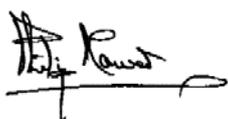
8.1 I hope that the preceding sections of this report will have given Members of the House and the public, not only more comprehensive information than has hitherto been available about the House of Commons standards system, but a clear idea of how, building on the achievements of my two predecessors and working with the Committee on Standards and Privileges, I am approaching my role as Commissioner. I take this opportunity to thank the Committee, and particularly its Chairman, Sir George Young, for their leadership and support.

8.2 The programme of work we have established in partnership—strengthening the system, emphasising prevention, resolving complaints, ensuring accountability—is ongoing. Priorities for the year ahead include:

- developing the reference material for Members on standards issues we have begun to produce;
- in consultation with the House authorities and the Whips, reviewing the training provision for Members and their staff;
- reviewing the Code of Conduct for members, under the auspices of the Committee on Standards and Privileges and in consultation with external partners;
- introducing a system of electronic data management to assist with handling the material generated by a large complaint investigation.

Variations in the level and complexity of complaints work will inevitably affect the rate at which we can make progress on these fronts. Nonetheless, we have a clear idea of where we want to go.

8.3 I came into my role convinced of the central place of Parliament in the life of our nation. If any were in doubt about this, the events of the past year should have convinced them of it and of the importance of ensuring a Parliament whose Members are held in high esteem by the public they serve. Sustaining high standards of conduct among Members is a key part of encouraging that confidence in Parliament which is essential to the health of our democracy and the effectiveness of our system of government. The House of Commons has much in which it can take pride, in respect of its standards arrangements as in other areas of its life. I look forward to continuing to work with Members further to improve those arrangements, so that the House may serve the public even more effectively.



4 July 2003

Sir Philip Mawer

## Appendix 1: The Rectification Procedure

In the case of admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has discretion to allow the Member concerned to rectify the matter. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House, either by means of a point of order or of an intervention in a relevant debate.

A late entry in the Register will be printed in bold italics and asterisked to a footnote. \* The footnote will read: *“entry added or amended on [insert date], under the rectification procedure”*

The footnote will be cross-referred to the page at the beginning of the Register where the rectification procedure will be briefly explained.

The corrected entry will remain in bold italics for 12 months from its first appearing and will also appear in one annual printed Register.

The entry itself in standard form will stay in so long as it is relevant if related to a continuing benefit.

The decision on whether the use of the rectification procedure is appropriate in any case is a matter for the Commissioner, who has discretion to dispose of such cases without first bringing them before the Committee on Standards and Privileges. Nonetheless, in any case in which the procedure is used, the Commissioner reports its use briefly to the Committee. He also informs the complainant of the outcome.

## Appendix 2: Parliamentary Standards

### **Policy on the disclosure of information about the handling of complaints against Members of Parliament**

1. This note sets out the policy, agreed by the Committee on Standards and Privileges (“the Committee”) and the Parliamentary Commissioner for Standards (“the Commissioner”), on the disclosure of information about the handling of complaints against Members of Parliament. Its publication meets the suggestion by the Committee on Standards in Public Life that:

*the relationship between the Commissioner and the media should be more formally defined. The existence of such a published strategy statement, which would set out what is to be expected when enquiries are made of the Commissioner, would give the clarity which has hitherto been lacking. (Eighth Report, Cm 5663, para 8.56).*

#### **General approach**

2. Both the Committee and the Commissioner will seek to be as open as they can about complaints and the operation of the complaints system, consistent with maintaining the integrity of that system and ensuring fairness both to the complainant and to a Member who is the subject of a complaint. In practice this means that they will aim for:

- as much openness as is possible about the process followed in considering a complaint;
- confidentiality wherever appropriate about individuals, especially during the investigation of a complaint.

3. This approach reflects the need to hold several, potentially conflicting, principles in balance. One is the public’s right to know, not least in order to have confidence in the effectiveness of the system for considering complaints. On the other hand, accused Members are entitled to a fair consideration of the complaint against them. Their public reputation is at stake and should not be put at hazard without proper cause. Nor is it necessarily in the interest of complainants for information to be disclosed, for example if this would prejudice a successful investigation of their complaint or put potential witnesses under pressure.

#### **Information about the complaints process**

4. The Committee has agreed that in future the Commissioner should report annually on the system for promoting and sustaining high standards of conduct among Members and on the operation of the complaints process. These reports will be published. On each occasion, the Committee will consider taking evidence from the Commissioner in public on his report.

5. The Commissioner’s report will include information on the number and types of complaints received and their outcome, including those cases dealt with by the Commissioner under the rectification procedure. Such information is not routinely published at present. The first report is expected to be published in the summer of 2003.

6. Working together, the Committee and the Commissioner also intend that policy or practice notes should be published, making clear the approach which they take to various procedural issues, and in such other circumstances as are considered appropriate. In February 2003, guidance notes were published setting out the procedure for considering complaints against Members. The Committee and the Commissioner hope these will be helpful both to Members and to the public.

7. A distinct section of the Parliamentary web-site has been established, containing information about the Code of Conduct for Members, the Register of Members' Interests and the system for considering complaints against Members, to ensure that this information is more readily available to the public.

#### **Information about individual complaints**

8. Neither the Committee nor the Commissioner considers it appropriate to release information to the media or the public about individual cases before these have been the subject of full and proper inquiry by the Commissioner, and the Committee where appropriate, and the latter has decided, in cases coming before it, in what terms it wishes to report to the House. Premature release of information may jeopardise effective inquiry into a complaint as well as the chances of a fair hearing for the Member concerned.

9. With this in mind, on receipt of the complaint, the Commissioner will take steps aimed at ensuring that the Member concerned is immediately informed of this, and of the nature of the allegations. However, he will not otherwise take the initiative in announcing that he has received a complaint. His office will nonetheless respond to inquiries, and in the case of an inquiry that relates specifically to a complaint that has been received, will be prepared, other than in exceptional circumstances, to confirm its receipt. At no time will the Commissioner reveal the specific details of inquiries he may be making.

10. When acknowledging that a complaint has been received, the Commissioner's office will make clear that the mere fact that a complaint has been received does not signify that it is well-founded. This approach is consistent with that recommended by the Committee on Standards in Public Life in its Eighth Report (Cm 5663, recommendation 25(a)).

11. The Commissioner's office will also be ready (again, if asked) to acknowledge:
- a. when the Commissioner has dismissed a complaint (because, on the evidence available, it did not meet the criteria for further investigation or further investigation of the matter by him was not, in his view, justified); or
  - b. when an inquiry has been postponed or suspended because the subject matter of the investigation is the subject of a police investigation or court proceedings; or
  - c. when he has submitted his report on a complaint to the Committee. In these circumstances, the Commissioner's office will make clear that the fact that he has reported to the Committee simply means that the Commissioner has completed his inquiries: no inference can be drawn from this as to the outcome of those inquiries.

The Commissioner will ensure that both the Member complained against and the complainant

are aware of the position before he releases any such information.

12. When the Commissioner has submitted a report on a complaint to the Committee, the Chairman (or the Clerk acting on his behalf) will, if asked, confirm that it has been received. While they will be prepared to indicate when the Committee is next meeting, they will not give any information as to when the Committee might be expected to consider the Commissioner's report, nor will they speculate on whether (or when) the Member might be called to give evidence or on when the Committee might be expected to agree a report to the House.

13. When the Committee has agreed a report, the Clerk informs the Member and the complainant of the publication arrangements. Once this has been done, the Chairman and the Clerk will, if asked, give out details of these arrangements in response to inquiries.

#### **Publication of the Commissioner's Report**

14. The Commissioner's report will continue to be published as an appendix to the report of the Committee to the House.

#### **The Parliamentary Commissioner for Standards and his staff**

15. The Commissioner is an Officer of the House who at the same time is appointed from outside to provide an element, independent of Members, in the monitoring and enforcement of the Code of Conduct and Rules for Members. It is important that Members have confidence in the confidentiality of their dealings with the Commissioner and that the public know and understand the arrangements for upholding standards and considering complaints.

16. Accordingly, the Commissioner and the Committee have agreed that he and his staff should and will be free to talk at any point, in general terms, to the press and others about the system for regulating Members' conduct and investigating complaints.

17. They have also agreed that neither the Commissioner nor his staff will talk to the press or others, whether in the context of any more general interview or otherwise, about any individual complaint, other than within the framework laid down in this note, unless it has been finally disposed of. In the case of a complaint in respect of which the Committee has recommended further action against the Member by the House, this period will be regarded as having ended when the House has come to a decision on the recommendation.

18. This means that the Commissioner would not normally expect to have contact with the press about individual cases (except where indicated earlier in this note or if individual journalists are themselves involved in a particular complaint). The Chairman of the Committee will normally take the lead in dealing with inquiries from the press about the published reports of the Committee, and will discuss with the Commissioner the handling of press interest in each particular case.