



Parliamentary Commissioner for Standards

---

# Annual Report 2003–04

---

*Ordered by The House of Commons  
to be printed 5 July 2004*

**HC 716**

Published on 6 July 2004  
by authority of the House of Commons  
London: The Stationery Office Limited  
£0.00



# Contents

---

<b>Annual Report 2003–04</b>		<i>Page</i>
	<b>Foreword</b>	<b>3</b>
<b>1</b>	<b>Strengthening the standards system</b>	<b>5</b>
	Response to the recommendations of the Committee on Standards in Public Life	5
	Frivolous or vexatious complaints	7
	Draft Corruption Bill	8
	Pay for select committee chairmen	9
<b>2</b>	<b>Emphasising prevention</b>	<b>11</b>
	Written guidance on standards matters	11
	Working with other agencies	11
	Advising individual Members	12
	Renewing the Register	12
<b>3</b>	<b>Investigating complaints</b>	<b>13</b>
	Sifting complaints	13
	The recording of complaints	14
	Complaints in 2003–04	15
	Rectification procedure	16
	Reports to the Committee in 2003–04	16
	Media policy	19
<b>4</b>	<b>Other registers</b>	<b>20</b>
	Brief history of the registers	20
	Members' Staff Register	20
	Journalists' Register	20
	All-Party Groups' Register	21
	Overlap between the registers	21
	Access to the registers	22
	Complaints	22
<b>5</b>	<b>Resourcing the work</b>	<b>23</b>
	Cost of the office of the Parliamentary Commissioner for Standards 2001–02 to 2004–05	23
<b>6</b>	<b>Conclusion and forward look</b>	<b>24</b>
	<b>Appendix 1: Standing Orders Nos 149 &amp; 150, as revised by the House on 26 June 2003</b>	<b>25</b>
	<b>Appendix 2: Frivolous or vexatious complaints</b>	<b>28</b>

<b>Appendix 3: Avoidance of conflict of interest: Guidance for chairmen and members of select committees</b>	<b>31</b>
<b>Appendix 4: Description of the arrangements for regulating standards of conduct in the House of Commons</b>	<b>34</b>

## Foreword

---

In June 2003, the House of Commons amplified the duties of the Parliamentary Commissioner for Standards to include the submission of an annual report to the House on the exercise of his functions. I am pleased to present this, my second report, covering the period 1 April 2003–31 March 2004.<sup>1</sup>

The principal duties of the Commissioner are set out in Standing Order No 150.<sup>2</sup> They include:

- Overseeing the maintenance and monitoring the operation of the Register of Members' Interests and the other Registers relating to Members' staff and research assistants, Parliamentary lobby journalists and All Party Parliamentary Groups
- advising Members and others confidentially on matters relating to registration
- advising the Committee on Standards and Privileges and individual Members on the interpretation of the House's Code of Conduct, and more generally on questions of propriety
- receiving and, if he thinks fit, investigating specific complaints against Members alleging breaches of the Code or of the Rules on the registration and declaration of interests.

In this report, I set out something of what this list of duties means in practice. In my last report I explained that I am trying to adopt a strategic approach to my work by:

- taking opportunities to strengthen the machinery for sustaining high standards of conduct among MPs
- putting more effort into trying to prevent problems before they arise
- ensuring greater openness about how the system for regulating conduct works, coupled with a proper degree of confidentiality about individual cases.

This report sets out what further work has been done in each of these respects over the past year. I believe it records solid progress on all fronts.

That record is of potential interest to both Members and the public. To try to increase this reports value to both, I have further refined and amplified the statistical material about complaints in Section 3. In the same section, I have also described lessons of general relevance which have emerged from the Committee on Standards and Privileges' consideration of particular complaints.

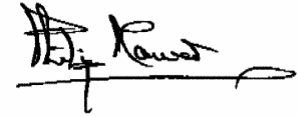
Promoting and sustaining high standards of conduct in the House is not just a task for the Commissioner, but a responsibility falling on all Members. In carrying forward my part in

---

1 My first report was published as HC 905, Session 2002–03

2 See Appendix 1

this task, I work closely with the Committee on Standards and Privileges and the authorities of the House, as well as with the House's senior officers. I pay tribute to their help and support, and that of my immediate colleagues during what has been a challenging but positive year.

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

10 June 2004

*Sir Philip Mawer*

# 1 Strengthening the standards system

---

1.1 During the past year, a number of steps have been taken to carry forward the programme of strengthening the House's arrangements for regulating standards of conduct which I described in my last report.<sup>1</sup>

## Response to the recommendations of the Committee on Standards in Public Life

1.2 In Section 2 of my last report, I described the review of the effectiveness of the standards arrangements in the House of Commons undertaken by the independent Committee on Standards in Public Life under its then chairman, Sir Nigel Wicks. In its Eighth Report published in November 2002, the Committee found 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."*<sup>2</sup>

The Committee also concluded 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."*<sup>3</sup>

1.3 The House debated its response to the Committee's report on 26 June 2003, on the basis of advice from the Committee on Standards and Privileges (in the formulation of which I participated) and the House of Commons Commission.<sup>4</sup> In most cases, the House accepted the Wicks Committee's recommendations. In the few cases where it did not do so, it adopted alternative proposals put forward by the Committee on Standards and Privileges and designed to meet the Committee's objectives. Many of the changes agreed were embodied in amendments to the Standing Orders of the House which govern the work of the Committee on Standards and Privileges and of the Parliamentary Commissioner for Standards.<sup>5</sup> A copy of these revised Standing Orders as agreed by the House last June is at Appendix 1. Other changes have been implemented administratively.

1.4 The main changes, agreed with support from all sides of the House, were:

- The composition of the Committee on Standards and Privileges will consist of an equal number of Members drawn from the party of Government and the Opposition parties. This change became effective on 11 May 2004.

---

1 A note briefly describing those arrangements is at Appendix 4

2 Cm 5663, Paragraph 2.7

3 Committee on Standards in Public Life, Cm 5663, paragraph 3.23

4 See respectively HC 403, 2002–03, Eighth Report of the Committee on Standards in Public Life: "Standards of Conduct in the House of Commons" & HC 422, 2002–03, Response to the Eighth Report of the Committee on Standards in Public Life: "Standards of Conduct in the House of Commons", respectively

5 SO Nos 149 & 150 respectively

- Parliamentary Private Secretaries will not be nominated for appointment to the Committee. This decision has been implemented gradually in respect of Parliamentary Private Secretaries who were already members, so as to avoid a sudden loss of continuity in the Committee, and has been wholly effective since 11 May 2004.
- The term of office of the Commissioner was amended to run for a period of 5 years, non-renewable. As a result of this decision, I was reappointed by Resolution of the House on the day of the debate for a 5 year term, expiring on 25 June 2008.
- Provision was made for me to be assisted by an investigating panel—to be appointed either on the Committee’s initiative or my own—in any case in which the appointment of a panel may help in resolving a fundamental dispute about the facts underlying a complaint.

1.5 Prior to the debate, Sir Nigel Wicks described the proposals before the House, which were based on the report of the Committee on Standards and Privileges, as “a significant improvement on the current arrangements”.<sup>6</sup> There is no doubt that the result of the House’s deliberations is a real strengthening of the system for encouraging high standards, an outcome from which both the Committee on Standards in Public Life and the Committee on Standards and Privileges can derive some satisfaction.

1.6 As well as those recommendations which necessitated changes in the Standing Orders of the House, the Committee on Standards in Public Life made a number of others which could be implemented administratively. By the late summer of 2003, all but two of the Committee’s 26 recommendations had been implemented. The two recommendations on which action was still in progress at the end of the period covered by this report concerned the planned review of the Code of Conduct for Members and a review of the strategy for training Members in standards matters.

1.7 As regards the planned *Review of the Code*, the Committee on Standards and Privileges approved in the autumn of 2003 proposals for the conduct of the review. Unfortunately, work on the review had to be temporarily set aside shortly thereafter to accommodate the inquiry into the complaint against the Rt Hon Iain Duncan Smith MP. However, this work has since been resumed and it is hoped to publish later this year a consultation document on the issues to be considered in the Review.

1.8 The *Review of Training Strategy* began in September 2003, when I wrote to the Leader of the House, the Government Chief Whip and their opposite numbers in the other parties represented in the House asking them what advice they offer their Members on standards related matters and inviting their views on how guidance and training offered by my office and the House authorities can be improved. The questions I put to them included:

- a) What provision do the **political parties** make at present for briefing new Members or guiding existing ones on standards matters? Should this provision be improved? How best can it be coordinated with training and guidance provided by the House



authorities (for example through the Parliamentary Learning and Development Project or through the Commissioner's office).

- b) How can the **induction arrangements** made by the House authorities including the Commissioner's office for educating new Members on standards matters be improved, both as regards Members returned at a General Election and those returned at a by-election?
- c) Would the provision of **training for existing Members** be helpful? If so, how is this best provided? Would occasional workshops (perhaps put on jointly by the Commissioner's office, other relevant Departments of the House of Commons and the Electoral Commission) be useful? Should any such workshops be open to Members' staff as well as Members themselves? How frequently should they be arranged? How can attendance levels be improved?
- d) Are the procedural **guidance notes** and other advice notes now being provided for Members helpful? Can they be improved? How?
- e) Recognising that each Member's circumstances are different, what generally can be done to encourage Members to seek timely **advice** from the Registrar or Commissioner on their own particular case?

I have received a number of helpful replies to my approach, in the light of which I put proposals for strengthening existing provision to the Committee on Standards and Privileges in May 2004. A full account of the steps taken will be included in next year's report.

### Frivolous or vexatious complaints

1.9 One of the recommendations in the Eighth Report of the Committee on Standards in Public Life was that the Committee on Standards and Privileges and the Commissioner should clarify the means by which they would deal with frivolous or vexatious complaints. Behind this recommendation lay the concern expressed by many who gave evidence to the Committee about the damage such complaints could do, in bringing the system into disrepute and in tying up resources unnecessarily.

1.10 Accordingly the Committee on Standards and Privileges approved a procedural note in September 2003 in which it made clear that all complaints received by the Commissioner would continue to be examined on their merits but that the Committee would be concerned about any evidence that the system was being abused in this way. If the Commissioner became aware of apparent abuse, he would draw it to the attention of the Committee. If the Committee shared the Commissioner's concerns, it would take informal action or, if that proved ineffective, report formally on the matter to the House. A copy of the note approved by the Committee is at Appendix 2. No cases requiring action under this procedure have arisen during the period of this report.

## Draft Corruption Bill

1.11 A draft Corruption Bill was presented by the Government to Parliament on 24 March 2003.<sup>7</sup> The bill, if enacted as originally drafted, would abolish the existing common law offence of bribery and existing statutory corruption offences, creating three new statutory offences of general application relating to:–

- corruptly conferring an advantage
- corruptly obtaining an advantage and
- performing functions as an agent corruptly

The proposed new offences would apply to Members as to all other citizens, thus fulfilling the objective of the Joint Committee on Parliamentary Privilege of ensuring that Members fall clearly and unambiguously within the scope of the criminal law on corruption.<sup>8</sup>

1.12 There is no evidence that corruption involving Members of Parliament has in recent years been a problem of any significance. Indeed, there is only one known case of a prosecution of a Member for a corruption offence (and then not for actions during proceedings in Parliament) and in that case, the Member was acquitted.<sup>9</sup> Nonetheless, the Committee on Standards and Privileges welcomed the draft Bill. In a submission to the Joint Committee of both Houses which was set up to consider the Bill, the Committee noted that if the Bill was enacted as drafted it was possible that some actions which would previously have been considered purely disciplinary matters for the House to deal with under the Code might also be viewed as possible criminal offences.

1.13 Whilst noting that the possibility of criminal liability arising in relation to conduct complained of did not prevent the House from imposing an appropriate disciplinary penalty for breach of the Code, the Committee on Standards and Privileges indicated that criminal proceedings should normally take precedence over the House's disciplinary proceedings, provided that this did not mean undue delay. Where a complaint was made to the Commissioner alleging criminal conduct, and the Commissioner considered that the matter should be further investigated by the police, the Committee would therefore expect him to report the facts to it with a recommendation that the matter be referred to the police for further investigation. Similarly if the Commissioner became aware that police inquiries were in hand in relation to a matter on which he had received a complaint, the Committee would normally expect the Commissioner to recommend suspending his inquiry until the police investigation had been completed and a decision taken on whether the Member should be charged.

1.14 Clause 12 of the draft Bill proposed the removal from parliamentary proceedings of the protection of Article IX of the Bill of Rights in relation to prosecutions for the new corruption offences. The Committee supported on balance the proposed removal in relation to corruption cases where Members were involved. However, it noted that the

---

7 Cm 6068

8 Joint Committee on Parliamentary Privilege, HC 214–I, Session 1998–99, paragraph 166–169

9 Joint Committee on Parliamentary Privilege, HC 214–I, Session 1998–99, paragraph 136

effect of the clause as set out in the draft bill would be to remove the protection in *all* cases involving corruption offences, whether or not Members were involved, and in respect of a wide range of proceedings in Parliament. The Joint Committee considering the Bill favoured narrowing the clause and proposed a revised version.<sup>10</sup> In its response to the Joint Committee’s report published on 18 December 2003, the Government said that it would like the opportunity to listen further to both Houses of Parliament on the point before reaching a firm conclusion.<sup>11</sup>

1.15 The Ministerial statement announcing the publication of the White Paper said that “a revised Bill will be introduced when Parliamentary time permits”. It must in principle be right that the law on corruption applies clearly to Members as to other citizens and I await with interest the promised introduction of the Bill.

### Pay for select committee chairmen

1.16 A report by the Review Body on Senior Salaries (SSRB), published by the Government on 17 July 2003 as Cm 5673, included a recommendation that the House should decide, before introducing extra payment for chairmen of select committees, whether they should be required to relinquish ‘paid or conflicting’ outside interests as a condition of receiving payment.<sup>12</sup> The Leader of the House sought the advice of the Committee on Standards and Privileges, and the Committee reported its views on 15 October 2003.<sup>13</sup>

1.17 The Committee did not find any evidence of shortcomings in the existing arrangements aimed at preventing a conflict between the outside interests of chairmen of select committees and their responsibilities as chairmen. It did not therefore recommend the imposition of any additional restrictions on their outside interests as a result of the introduction of payment.

1.18 However, the Committee recommended arrangements to ensure that select committee chairmen’s declared interests become a matter of public knowledge as soon as possible after they have been chosen by their committees. It also suggested that if chairmen were to be paid from public funds, there should be no question of, nor any appearance of, any double payment—from both a chairman’s salary and an outside interest—for an outside activity arising primarily as a result of the chairmanship. Nor, like Ministers, should chairmen gain private benefit from work done, in whole or in part, with any assistance from public resources.<sup>14</sup> The Committee offered to bring forward guidelines on these matters for the House’s consideration.

1.19 When the House considered the matter on 30 October 2003, and decided that certain select committee chairmen should be paid from the start of the next Session, it endorsed the approach advocated by the Committee. The Committee subsequently prepared guidance for chairmen and members of select committees on the avoidance of conflict of

10 HC 705, Session 2002–03, paragraphs 134–5

11 Cm 6068, Session 2002–03

12 Cm 5673, Session 2002–03, paragraph 234

13 Committee on Standards and Privileges, Sixth Report, Session 2002–03, HC 1150

14 Committee on Standards and Privileges, Sixth Report, Session 2002–03, HC 1150, paragraph 16

interests, which was published as the Committee's Seventh Report of Session 2002–03.<sup>15</sup> A copy of this guidance (in the preparation of which I was involved) is at Appendix 3 to this report.

1.20 So far, the guidance has proved satisfactory. The Registrar of Members' Interests and I will keep its operation under review and report any practical issues which may arise to the Committee as necessary.

---

<sup>15</sup> Committee on Standards and Privileges, Seventh Report, Session 2002–03, HC 1292

## 2 Emphasising prevention

---

2.1 In my last report, I said that both the Committee on Standards and Privileges and I wish to put more systematic emphasis than perhaps has been placed hitherto on preventing situations that may give rise to complaints against Members. It is far better to avoid conduct which gives rise to complaints than to focus on dealing with complaints after a problem has arisen. The techniques for trying to achieve this include:

- Simplifying and clarifying what is expected of Members
- Providing training for Members and their staff
- Offering advice and guidance, both individually and to Members in general
- Working with other agencies.

I have already mentioned the review of training undertaken in the last year. The year has also seen advances in the written guidance and advice given to Members on standards matters.

### Written guidance on standards matters

2.2 In December 2003, my office circulated to all Members a comprehensive folder bringing together guidance material on standards matters. The folder—which is in loose-leaf format to facilitate easy updating—includes not only the text of the Code of Conduct and Guide to the Rules but also a full set of the various notes that I have issued on procedural matters (concerning for example, the investigation of complaints) and on issues of substance on which the Committee has approved specific advice to Members.

2.3 Distribution of the folder has been warmly welcomed. Members have variously described it as “clear and helpful”, “very useful” and “a useful resource.”

### Working with other agencies

2.4 Material provided by the Electoral Commission giving guidance to Members on their obligations under Schedule 7 of the Political Parties, Elections and Referendums Act 2000 (PPERA) regarding the acceptance and reporting of donations was also included in the folders. It is important that, when registering donations in the Register of Members’ Interests, Members also keep in mind their obligations under PERA and the fact that, whilst similar in many respects, the Commission’s regime is different from the House’s requirements. Including the Commission’s guidance in the folder has given Members a single point of reference on these issues. The Registrar also refers Members to the Electoral Commission in appropriate circumstances.

2.5 More generally, the Registrar and I have continued to consult the Electoral Commission on matters of shared interest and to maintain contact with other standards bodies, including our equivalents in the House of Lords, the Standards Board for England and in a number of other jurisdictions. Together with the Clerks of the Committee on Standards and Privileges, we were able to participate in an informal seminar in London in

March 2004 which brought together representatives concerned with standards issues from both Houses of the Westminster Parliament, the Scottish Parliament, the Assemblies in Northern Ireland and Wales, the Dáil Eireann and the Committee on Standards in Public Life. This was a valuable opportunity for the exchange of information and learning, as well as for mutual encouragement and support.

### **Advising individual Members**

2.6 The provision of advice to individual Members continues to be a core part of the work of my office and of the Registrar of Members' Interests in particular. This advisory role is undertaken every day, sometimes under pressure when, for example, Members want urgent advice in relation to a matter which may be arising imminently in the House.

### **Renewing the Register**

2.7 Although continuous, the provision of advice on registration matters focuses particularly around the annual renewal of the printed Register and the regular updates of the Register which are published on the parliamentary web-site during the year. This year the printed edition of the Register, recording Members' Interests as at 31 January 2004, was published on 24 February 2004.<sup>16</sup> The updating of the Register is always a substantial task, involving considerable work by the Registrar and executive assistant in my office in liaising with Members.

## 3 Investigating complaints

---

3.1 Investigating complaints against Members is not the only important part of the work of my office but it is that which attracts most attention. It is a strength of the system that complaints may be sent directly to me by members of the public as well as by Members of Parliament. Complaints from the public do not go through the filter of an MP. To be considered, however, they have to be submitted in writing, make a specific complaint against one or more Members, be signed and come with sufficient supporting evidence to warrant at least a preliminary inquiry.

3.2 Sometimes members of the public ring up or e-mail with an initial inquiry. My office will do its best in such situations to advise on the procedure for making a complaint and on whether the issue is one which is likely to fall within my terms of reference. Where appropriate we will seek to point towards a more relevant agency or means of a potential complainant resolving their concern. At the end of the day, however, it is for the individual concerned to decide whether or not to make a complaint.

### Sifting complaints

3.3 The number of complaints which result in a report to the Committee on Standards and Privileges is relatively few, since many of those which I receive fall outside my terms of reference as set out in Standing Order No 150 of the House and amplified in the Guide to the Rules relating to the Conduct of Members.<sup>17</sup> It is, perhaps, noteworthy that over a third of the complaints I received in 2003–04 failed to make a specific complaint against a named Member and did not therefore fall to be considered by me. Beyond that, the most frequent reason why they fell outside my terms of reference was that they concerned the way a Member had responded to a constituent's request for assistance. In many of these cases it is evident from the material sent by the complainant that the Member has tried conscientiously to deal with the constituent's problem (often over a long period) but without succeeding in resolving it to the constituent's satisfaction. The constituent then writes to me to complain about the Member.

3.4 Such complaints are outside my terms of reference for good reason. In a parliamentary democracy, it should not be for the Commissioner to substitute his judgement for that of the Member. The proper avenue of redress for a constituent who disagrees with their Member's judgement, or is dissatisfied with the service their Member has provided, is the ballot box.

3.5 Other reasons why a complaint may fall outside my terms of reference include:

- It may involve matters of policy
- It may be a complaint about the views or opinions expressed by a Member

---

<sup>17</sup> SO No 150, see Appendix 1. Guide to Rules, see HC 841, Session 2001–02

- It may primarily concern a Member's actions as a Government Minister rather than as a Member of the House. Cases of this sort fall to be handled under the Code of Conduct for Ministers (the Ministerial Code), which is promulgated by the Prime Minister.

3.6 Occasionally I receive complaints about what a Member has said during proceedings in the House. Such remarks are, of course, protected by Parliamentary privilege from actions for defamation in the courts. The complainant may allege that the Member has lied or otherwise misled the House in what they have said, and that they have no comparable opportunity to respond.

3.7 I approach such complaints with considerable caution. Complaints about a Member's views and opinions are outside my terms of reference. Freedom of speech and debate are fundamental to the effective functioning of the House. I do not believe that, in setting up the present system for independent investigation of complaints, the House of Commons intended the Commissioner to substitute his own judgement for that of the Member concerned in exercising the ancient Parliamentary privilege of freedom of speech, or for that of the occupant of the Chair in deciding on matters of order. It must be for the House itself to decide if a Member has abused its privileges.

### **The recording of complaints**

3.8 During the past year my office continued its efforts to refine its system for recording complaints and the action taken in response to them. As anyone who has assembled such information knows, deciding what constitutes a complaint for recording purposes requires judgement and the adoption of a consistent approach over time. Nonetheless our ability to keep track of developments is improving year-on-year.



## Complaints in 2003–04

3.9 During the 12 months from 1 April 2003 to 31 March 2004, 152 letters of complaint from Members of the House or members of the public were received in my office. Of these, 96 contained specific complaints against a named Member. The following table gives a quarterly breakdown of these figures and of the outcome.

	Apr–June 2003	July–Sept 2003	Oct–Dec 2003	Jan–Mar 2004	Totals: April 03– March 04	Totals: April 02– March 03
1. All Matters of Complaint received	29 <sup>1</sup>	28	56 <sup>4</sup>	39 <sup>3</sup>	152	67
2. Specific complaints against a named Member	19 <sup>1</sup>	19	36 <sup>4</sup>	22 <sup>3</sup>	96	52
3. Total number of Members involved	13	19	26	21	79	43
4. Complaints not proceeded with:						
(a) outside remit;	(a) 12 <sup>2</sup>	(a) 16	(a) 29 <sup>5</sup>	(a) 19	76	20
(b) other	(b) 3	(b) 0	(b) 3 <sup>3</sup>	(b) 0	6	8
5. Complaints proceeded with	4	3	4	3	14	24
6. Complaints subject of preliminary inquiry then dismissed	2	1	1	2	6	10
7. Complaints subject of further investigation	2 <sup>3</sup>	2	3 <sup>3</sup>	0	7	11
8. Complaints dealt with by rectification procedure	0	0	0	1	1	1
9. Complaints subject of a report to Committee on Standards and Privileges <sup>7</sup>	2 <sup>6</sup>	1	3 <sup>3</sup>	0	6	10 <sup>8</sup>

<sup>1</sup> 7 of these were about the same Member

<sup>2</sup> 4 of these were about the same Member

<sup>3</sup> 2 of these were about the same Member

<sup>4</sup> 6 of these were about one Member; 5 about another; 2 about a third

<sup>5</sup> 4 of these were about one Member; 2 about another

<sup>6</sup> Interim report (both complaints were about the same Member)

<sup>7</sup> Reports not necessarily made in the same quarter as that in which complaints received

<sup>8</sup> 9 of these complaints were about the same Member

In addition, 3 complaints which were under investigation at the end of the previous reporting period were the subject of reports to the Committee on Standards and Privileges during 2003–04.

3.10 Both the number of matters referred to my office and the number of specific complaints against a named Member increased markedly in the year which is the subject of this report, from 67 to 152 and 52 to 96 respectively. This followed a number of years in which they had declined steadily, as noted in my previous report.<sup>18</sup> Part of the reason for the increase in the number of specific complaints is that several of the complaints made concerned the same Member and often the same set of circumstances. So 22 of the 96 specific complaints against a named individual Member concerned just 5 Members of the House.

3.11 It is clear from the figures available that the number of letters of complaint received can fluctuate markedly from quarter to quarter and year to year. There is some anecdotal evidence that the prominence given to certain stories by the media and the extent of public interest in an issue may give rise to the receipt of multiple complaints. So, for example, a number of the complaints received during the last year concerned matters relating to events in or in connection with Iraq. Others appeared to be stimulated by coverage of allegations against the former Leader of the Conservative Party.

3.12 Of the 96 specific complaints against a named Member which I received, 82 were not proceeded with after examination. As the table shows, most of these fell outside my terms of reference, for one or more of the reasons which I have described earlier, but a small number were dismissed for other reasons, for example because the person complaining failed to provide any credible evidence in support of their complaint.

3.13 Of the remaining complaints, 6 were dismissed after preliminary inquiries of the Member concerned. In 2 of those 6 cases, the person complaining wrote subsequently indicating that they were satisfied with the explanation given.

### Rectification procedure

3.14 One complaint was dealt with through the rectification procedure now incorporated by the House into Standing Order No. 150 following a recommendation of the Committee on Standards in Public Life.<sup>19</sup> The complaint, which concerned the failure of a Member to register some earnings from media work, arrived very shortly after I had reported on a similar complaint against the same Member. As the second complaint essentially covered the same ground and arose out of the same set of circumstances as the first, I exercised the discretion given me by the House to make a belated entry in the Register with an appropriate explanatory note.

### Reports to the Committee in 2003–04

3.15 During the year in question I made 6 reports to the Committee, which between them covered a total of 9 complaints. 3 of these complaints had been received prior to this reporting year. 3 complaints received during the present reporting year remained under inquiry at the end of the year (although 2 of these have already been the subject of an interim report).

---

<sup>18</sup> HC 905, Session 2002–03, paragraph 4.10

<sup>19</sup> Standing Order No 150 (3)

3.16 I completed 6 written reports to the Committee on individual complaints during 2003–04, two more than in the previous 12 months. These were published with the relevant report of the Committee on Standards and Privileges. One was in the nature of an interim report concerning an investigation which, on legal advice, it would not be appropriate to conclude until a related action for libel is over. The hearing of the action is expected to take place towards the end of 2004.<sup>20</sup>

3.17 It is not necessary for me to repeat here the substance of the other reports, as they are already in the public domain and can be studied on the world-wide web. As usual, however, the Committee's consideration of these individual cases gave rise to certain general observations which it may be helpful to highlight.

3.18 One case, concerning a former Member, involved the sub-letting for a considerable number of years of part of his constituency office paid for out of the relevant parliamentary allowance.<sup>21</sup> In its report, the Committee was pleased to note that in January 2002, the House's Department of Finance and Administration had issued new guidance, approved by Mr Speaker, on the arrangements for Members' offices and surgeries outside Westminster. This strongly advised, on practical grounds, against Members sub-letting leased accommodation paid for out of allowances, and imposed additional requirements if continuation of sub-letting was unavoidable. The Committee welcomed this tightening of arrangements.

3.19 A second case was noteworthy because, following newspaper stories, the Member who was the subject of the stories wrote to me seeking an investigation of the propriety of his own actions, in the context of the Code of Conduct for Members. I reported this to the Committee on Standards and Privileges and the Committee authorised me to investigate.

3.20 This decision by the Committee represents a helpful strengthening of arrangements. Normally a newspaper story alleging misconduct by a Member will follow or soon be followed by a complaint. On this occasion, however, there was a considerable delay before a complaint arrived. This can leave the Member involved in a state of uncertainty and may lead the public to question why no action appears to be being taken. It is now clear that, in cases where the Commissioner believes that there is considerable evidence of a serious mischief, which in his view merits further investigation but in respect of which no formal complaint has been received, he may report to the Committee and that the Committee will normally authorise the Commissioner to proceed. In the event, in this particular case a complaint from a Member of the public reached me later in the day on which the Committee had authorised me to investigate.<sup>22</sup>

3.21 This case was also significant in that it caused me to consider what are the relevant factors to be taken into account when considering complaints relating to a Members' use of the parliamentary staffing allowance. I suggested that Members should have 4 questions in mind when using the allowance:

---

20 Committee on Standards and Privileges, First Report, Session 2003–04, HC 73

21 Committee on Standards and Privileges, Fourth Report, Session 2002–03, HC 946

22 Committee on Standards and Privileges, Fifth Report, Session 2002–03, HC 947

- Is the person employed to meet a genuine need in supporting the Member in performing their Parliamentary duties?
- Are they qualified/able to do the job?
- Do they actually do the job?
- Are the resulting costs, in so far as they are charged to the allowance, reasonable and entirely attributable to the Member's Parliamentary work?

These tests also proved relevant in a later case which arose during the same year.<sup>23</sup>

3.22 Of the three remaining cases, one concerned the failure of a Member to register earnings from media work. The Member had included in previous Registers a general entry indicating that she undertook occasional lecturing and journalism but had failed to realise that changes to the Rules relating to the registration of media work which the House had approved in May 2002 meant that such a general entry was no longer sufficient. Members are now required to make a specific entry where earnings for media work from a particular source exceed 1% of a Member's salary (£550 during the period in question).<sup>24</sup>

3.23 A further case concerned a Member's failure to declare in the Register of Members' Interests the net benefit of subsidised office accommodation with which he was provided.<sup>25</sup> The case was noteworthy because it also involved a Members' obligation under the Political Parties, Elections and Referendums Act 2000 (PPERA) to register certain donations with the Electoral Commission. The Committee noted in its report:

*“In cases [involving] the provision of property, services or facilities other than on commercial terms, Members may be well advised to consult the Registrar of Members' Interests, if the interest is not already registered, if there is a reasonable expectation that the Electoral Commission will take the view that this constitutes a recordable donation for the purposes of PERA.”*<sup>26</sup>

3.24 The final report submitted to the Committee in the period under review concerned the result of a complex and extensive inquiry into a complaint that a Member had improperly paid his wife out of his parliamentary staffing allowance for work which she had not undertaken or which should not have been reimbursed from the allowance.<sup>27</sup> A number of broader matters concerning allowances, the use of Short money (ie financial assistance to Opposition parties) and the unauthorised release of information given to an inquiry were the subject of comment in the Committee's report.

---

23 See paragraph 3.24 below

24 Committee on Standards and Privileges, Second Report, Session 2003–04, HC 285

25 Committee on Standards and Privileges, Third Report, Session 2003–04, HC 339

26 Committee on Standards and Privileges, Third Report, Session 2003–04, HC 339, paragraph 8

27 Committee on Standards and Privileges, Fourth Report, Session 2003–04, HC 476–I

## Media policy

3.25 During the past year my office has continued to operate the policy in relation to the release of information about its work described in section 6 and Appendix 2 of my last report.<sup>28</sup> This involves as much openness as possible about the way the system for regulating standards works and preserving confidentiality during the investigation and consideration of individual cases. We also 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 on Standards and Privileges. This approach—approved by the Committee—seems to have secured the understanding of press and public and, so far, appears to have worked well.

---

28 HC 905, Session 2002–03

## 4 Other registers

---

### Brief history of the registers

4.1 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>29</sup>*

4.2 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 by the House on 17 December 1985 and the first registers were published in 1986. The form and substance of each register are detailed in the sections below.

### Members' Staff Register

4.3 Those holding a parliamentary pass as a Member's secretary or research assistant are required to register any other occupation or employment from which they receive income exceeding 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.<sup>30</sup> 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 that sum and relates in any way to their work in Parliament.

4.4 The number of staff on the register has increased significantly, from 1456 on 31 March 2003 to 1576 on 31 March 2004. The number of these registering an interest rose less markedly, from 361 to 388.

### Journalists' Register

4.5 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 from which they receive income exceeding one percent 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.<sup>31</sup>

---

29 Select Committee on Members' Interests, First Report, Session 1984–85, HC 261

30 Over £275 during the period of this report

31 Over £550 during the period of this report

4.6 Turnover on the register is low. Of the 408 journalists on the register as at 31 March 2004, 62 had registered interests. This compares with 398 and 60 respectively at 31 March 2003.

### All-Party Groups' Register

4.7 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 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).

4.8 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 £500 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.

4.9 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 groups on the List. For example, they 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.

4.10 The number of registered groups as at 31 March 2004 showed a significant increase over that in 2003, being 401 as against 356. Of these 113 (101) were country groups and 288 (255) were subject groups. The number registering financial or material benefits fell slightly, however, from 211 to 209.

### Overlap between the registers

4.11 Overlap between the Registers kept by my office is an increasingly common occurrence. Subject to the different financial thresholds that apply to each of the registers, examples arise when:

- a) Hospitality (eg relating to overseas visits) is received by an all-party group. This should be registered on both the Groups' and Members' register (and may also need to be registered with the Electoral Commission, depending on its value to each individual Member).
- b) An external organisation or individual subsidises a staff member's salary. This should be registered on both the Staff and Members' register, and if the staff member acts as part of the staff to an all-party group, on the Groups' register.

4.12 It is important that Members keep in mind the potential need to make entries in more than one of the Registers arising from the same circumstances. As mentioned earlier, in some cases Members will also need to address the Electoral Commission's registration requirements.

### Access to the registers

4.13 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 by arrangement.<sup>32</sup> An updated edition of all three registers is usually issued each month when the House is sitting.

### Complaints

4.14 In the past year I received no formal complaints in connection with these registers.

---

32 An arrangement may be made with the Secretary to the Committee on Standards and Privileges



## 5 Resourcing the work

5.1 The table below sets out the cost of running my office during the last three financial years and the estimated cost during the current year. Figures for previous years were given in my report for 2002–03.<sup>33</sup> The bulk of the readily identified 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, and are therefore not included in the running cost figures.

### Cost of the office of the Parliamentary Commissioner for Standards 2001–02 to 2004–05

	2001–02	2002–03	2003–04	2004–05 (Estimate)
Staffing etc	293,810	273,101	301,425	313,000
Running Costs	2,003	406	33,833	1,000
<b>Total</b>	<b>295,813</b>	<b>273,507</b>	<b>335,258</b>	<b>314,000</b>

5.2 Reporting to the House in 2002, the House of Commons Commission confirmed that it would make available whatever resources were judged necessary for me to do my job.<sup>34</sup> Additional demands arose on my office from 2 different quarters in 2003–04: 2 instances of long term sick absence among staff and a particularly complex inquiry (the latter extra cost arising from the transcription of the oral evidence given before me). Other than normal salary increases it is these twin pressures which account for most of the increase in the staffing and running costs respectively of my office in 2003–04 over 2002–03. I am grateful to the Commission for its willingness to absorb these unforeseen additional costs.

5.3 The 2 instances of long-term sick absence and the complex inquiry in the second part of the year also imposed additional strains on my small team of colleagues. I am grateful to all concerned for carrying these so professionally and without, so far as I am aware, any reduction in the quality of the service to the House and the public.

5.4 In my last report, I mentioned my intended introduction of a system of electronic data management which would help handle the material generated by a large complaint investigation. This was successfully piloted in 2003 and has already proved its potential in enabling my office to keep track of and retrieve documents. In the coming year we aim to increase the use we make of this system to help further our operational effectiveness.

33 HC 905, Session 2002–03

34 HC 598, Session 2001–02

## 6 Conclusion and forward look

---

6.1 As this report shows, the past year has been a busy one of solid achievement. As well as handling the ebb and flow of individual cases, we have made further progress in strengthening the system for promoting and sustaining high standards of conduct in the House and in trying to prevent breaches of those standards through improved guidance and help to Members.

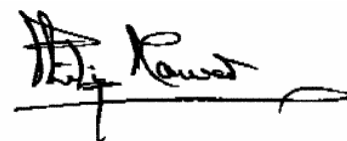
6.2 This coming year will see my colleagues and me, under the oversight of the Committee on Standards and Privileges, seeking to carry those objectives further by:

- Preparing and implementing a coordinated strategy for briefing Members on standards issues, a task which will assume enhanced importance in the wake of a General Election with the entry of new Members to the House.
- Agreeing with the Committee procedures for handling complaints involving allegations of criminal conduct.
- Mounting with the Committee a review of the Code of Conduct, including consultation with external parties.

The progress we can make with these objectives will inevitably be affected by the volume of everyday advice and complaints work but we are already well placed to achieve results.

6.3 In conclusion I wish to thank my immediate colleagues and other staff of the House for their help during a demanding year. I also wish to thank the Committee on Standards and Privileges, its Chairman, Sir George Young, and its staff for their advice and help in taking forward our shared strategy.

10 June 2004



Sir Philip Mawer

## Appendix 1: Standing Orders Nos 149 & 150, as revised by the House on 26 June 2003

---

149.—(1) There shall be a select committee, called the Committee on Standards and Privileges—

(a) to consider specific matters relating to privileges referred to it by the House;

(b) 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

(c) 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.

(2) The committee shall consist of eleven Members, of whom five shall be a quorum.

(3) Unless the House otherwise orders, each Member nominated to the committee shall continue to be a member of it for the remainder of the Parliament.

(4) The committee shall have power to appoint sub-committees consisting of no more than seven Members, of whom three shall be a quorum, and to refer to such sub-committees any of the matters referred to the committee; and shall appoint one such sub-committee to receive reports from the Commissioner relating to investigations into specific complaints.

(5) The committee and any sub-committee shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, to report from time to time, to appoint legal advisers, and to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference.

(6) The committee shall have power to order the attendance of any Member before the committee or any sub-committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of a sub-committee or of the Commissioner, be laid before the committee or any sub-committee.

(7) The committee, or any sub-committee, shall have power to refer to unreported evidence of former Committees of Privileges or of former Select Committees on Members' Interests and to any documents circulated to any such committee.

(8) The committee shall have power to refuse to allow proceedings to which strangers are admitted to be broadcast.

(9) Mr Attorney General, the Advocate General and Mr Solicitor General, being Members of the House, may attend the committee or any sub-committee, may take part in deliberations, may receive committee or sub-committee papers and may give such other assistance to the committee or sub-committee as may be appropriate, but shall not vote or make any motion or move any amendment or be counted in the quorum.

**150.**—(1) There shall be an officer of this House, called the Parliamentary Commissioner for Standards, who shall be appointed by the House.

(2) The principal duties of the Commissioner shall be—

(a) to maintain the Register of Members' Interests and any other registers of interest established by the House, and to make such arrangements for the compilation, maintenance and accessibility of those registers as are approved by the Committee on Standards and Privileges or an appropriate sub-committee thereof;

(b) to provide advice confidentially to Members and other persons or bodies subject to registration on matters relating to the registration of individual interests;

(c) to advise the Committee on Standards and Privileges, its sub-committees and individual Members on the interpretation of any code of conduct to which the House has agreed and on questions of propriety;

(d) to monitor the operation of such code and registers, and to make recommendations thereon to the Committee on Standards and Privileges or an appropriate sub-committee thereof; and

(e) to receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of—

(i) the registration or declaration of interests, or

(ii) other aspects of the propriety of a Member's conduct,

and to report to the Committee on Standards and Privileges or to an appropriate sub-committee thereof unless the provisions of paragraph (3) apply.

(3) No report shall be made by the Commissioner if, in any case where the Member concerned has agreed that he has failed to register or declare an interest, it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose.

(4) The Commissioner may at any time in the course of investigating a complaint, and if so requested by the Committee on Standards and Privileges shall, appoint an Investigatory Panel to assist him in establishing the facts relevant to the investigation.

(5) An Investigatory Panel shall—

(a) consist of the Commissioner, who shall be Chairman of the Panel, and two assessors, one of whom shall be a legally qualified person appointed by the Commissioner and the

other shall be a Member, who shall not be a member of the Committee on Standards and Privileges, appointed by the Speaker; and

(b) meet in private.

(6) The Commissioner—

(a) shall determine the procedures of the Panel, subject to the provisions of this Order; and

(b) may appoint counsel for the purpose of assisting the Panel.

(7) Any report that the Commissioner may have made to the Committee on Standards and Privileges in relation to the complaint before the appointment of the Panel shall be made available to the Panel by the Committee.

(8) Any Member who is the subject of the complaint under investigation shall, if he so requests, be heard by the Panel; may call witnesses; and may examine other witnesses.

(9) When the Panel has completed its proceedings—

(a) the Commissioner shall report as in paragraph (2)(e);

(b) the legal assessor shall report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have been consistent with the principles of natural justice; and

(c) the Member assessor may report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.

(10) The Commissioner shall report each year to the House on the exercise by him of his functions.

(11) The Commissioner may be dismissed only following a resolution of the House, moved for by a Member of the House of Commons Commission, after the Committee on Standards and Privileges has reported to the House that it is satisfied that the Commissioner is unfit to hold his office or unable to carry out his functions; and any such report shall include a statement of the Committee's reasons for its conclusion.

## Appendix 2: Frivolous or vexatious complaints

---

### Introduction

1. In paragraph 5.13 of its Eighth Report on “Standards in the House of Commons” (Cm 5663), the Committee on Standards in Public Life (the Wicks Committee) said:

*“Many of our witnesses were united in their concern about the damage that could be caused by frivolous or vexatious complaints or ‘tit-for-tatting’. These were seen as bringing the system into disrepute as well as tying up resources unnecessarily”.*

The Committee noted that a number of different actions for dealing with complaints of this nature had been referred to either in documents or oral evidence. The Committee accordingly recommended that the Guide to the Rules relating to the Conduct of Members of the House of Commons should be amended “to set out clearly the means by which the Committee of Standards and Privileges would deal with frivolous or vexatious complaints”.

2. As the Guide to the Rules was revised only in May 2002 and is unlikely to be amended again in the lifetime of the present Parliament, the Committee on Standards and Privileges, in discussion with the Parliamentary Commissioner for Standards, has decided to set out its practice in this matter in this procedural guidance note. It will review its practice in the light of experience, and of any comments it receives on this note, before the Guide to the Rules is next revised.

### Principles

3. The House of Commons, through its Code of Conduct and Rules on registration and declaration of interests, is determined that its Members should observe high ethical standards. It has set up effective arrangements for investigation of complaints that its Members have failed to live up to those standards, and to punish Members in cases where complaints are upheld.
4. Anyone with a complaint that a Member of Parliament has contravened the Code of Conduct or Rules approved by the House should be able to make that complaint confident that it will be properly and fairly considered by the independent Parliamentary Commissioner for Standards and, if appropriate after due investigation by the Commissioner, by the Committee on Standards and Privileges. They are also entitled to be assured that they themselves will not be subject to improper or arbitrary action for having made it. All complaints received by the Parliamentary Commissioner for Standards are examined by the Commissioner on their merits, no matter what their nature or source.
5. A complaint of misconduct against any person is, however, a serious matter. It is particularly so perhaps for those in public life, such as Members of Parliament, whose reputation is critical to their continued ability to operate effectively in that sphere. Furthermore, the mere existence of a complaint—justified or unjustified—can also damage the standing of the institution of which the person concerned is part. Complaints against a Member of Parliament should therefore never be entered into frivolously or vexatiously, whether through motives of political point-scoring, revenge or for any other reason. Besides the risk of damage to the reputation of both the Member and the House, such cases are liable to divert finite investigatory resources from other, more important inquiries.

6. The Committee on Standards and Privileges and the Commissioner would be concerned about any evidence that the system for considering alleged infractions of the Code and Rules was being used for purposes other than that for which it is intended, whether for party political or other motives. Potential evidence of abuse might include one or more of the following:
- a succession of complaints made without reasonable grounds from one source against the same individual or group of individuals
  - a series of complaints between two or more people, one apparently made in response to another (so called ‘tit-for-tat’ complaints)
  - one or more complaints only flimsily backed by any evidence
  - further allegations, representing minor variations on the original, coming forward when the first has been dismissed.

### Parliamentary privilege

7. When making a complaint against a Member of Parliament, a complainant is not protected from legal action (for example, for defamation of character) unless and until the Commissioner decides that the complaint in question is appropriate for inquiry. Even then, parliamentary privilege will only protect material submitted to the Commissioner or to the Committee on Standards and Privileges as part of the complaint and any subsequent inquiry. It will not protect anything said to the press, for example. Publication of evidence or correspondence, or its disclosure to anyone other than the Commissioner or Standards and Privileges Committee without the Committee’s prior agreement, would be a contempt of the House.

### Procedure

8. The Commissioner considers initially all complaints received. He weighs each one and the evidence in support of it carefully. He will not, however, accept even for preliminary inquiry any complaints which:
- are anonymous
  - fall outside his terms of reference (for a definition of which see Procedural Notes 1–3)
  - are unsupported by any evidence
  - appear to raise issues so minor as to make the use of the complaints machinery in relation to them entirely disproportionate.
9. If the Commissioner is concerned upon examination that any particular complaint or series of complaints may represent an abuse of the complaints process, he will—whether or not he has inquired further into the complaint(s)—draw his concerns to the attention of the Committee on Standards and Privileges. Among the factors he will take into account in assessing whether or not a complaint is frivolous or vexatious are:
- the weight of the complaint
  - the evidence offered in its support
  - the pattern of behaviour around the making of the complaint
  - things said in connection with the submission or receipt of the complaint.

In making his assessment, the Commissioner will take into account the whole history of the matter under consideration.

10. If, having considered the matter, the Committee shares the Commissioner's concerns, it may institute any of the following action.

### **(a) If the complainant is a Member of the House**

11. The Committee may:
  - invite the Chairman of the Committee to raise the Commissioner's concerns informally with the Member(s) involved, either orally or in writing
  - invite the Chairman to raise the Commissioner's concerns with the Party Whips of the Member(s) involved
  - invite the Chairman to write a formal letter of advice to the Member(s) involved, which could be made public.
12. If the unacceptable behaviour involved is, in the Committee's view, sufficiently flagrant or a pattern of unacceptable behaviour continues, the Committee may make its concerns public through the medium of one of its reports. In extreme circumstances, it would be open to the Commissioner to investigate (either on receipt of a complaint or on the authority of the Committee) whether, in lodging complaints frivolously or vexatiously, a Member has themselves breached the Code by acting in a way which tended to weaken or undermine public trust and confidence in the integrity of Parliament and to bring the House, or its Members generally, into disrepute.

### **(b) If the complainant is not a Member of the House**

13. The Committee may:
  - invite its Chairman to write to the person concerned, asking them to desist from their actions
  - make known that they have done so
  - name the person concerned in a published report to the House.

## **Conclusion**

14. The precise action appropriate in relation to any complaint which is judged by the Committee on Standards and Privileges to be either frivolous or vexatious will depend on the circumstances of the particular case. The House is committed to having an effective system for assessing complaints, in which those which are properly brought are fairly and appropriately assessed. Action will only be taken in the case of complaints which are frivolous or vexatious in order to prevent abuse of that system and to ensure that public confidence in the House and the system for assessing complaints can continue to be well-placed.



# Appendix 3: Avoidance of conflict of interest: Guidance for chairmen and members of select committees

---

## *Guidance approved by the Committee on Standards and Privileges<sup>1</sup>*

### Introduction

1. On 30 October 2003, when deciding that the chairmen of certain select committees should be paid from the start of the 2003–04 Parliamentary Session, the House approved the Sixth Report of the Committee on Standards and Privileges (HC 1150). In that report, made in the context of a recommendation from the Review Body on Senior Salaries that certain select committee chairmen should receive an extra payment of £12,500 per annum, the Committee considered whether such a decision should be accompanied by restrictions on the outside interests they might hold. The Committee saw no reason why it should but recognised that there would be certain such activities for which it would no longer be appropriate that the chairmen in question should be paid.
2. The House endorsed two principles set out in that report relating to circumstances in which it would not be right for those chairmen to accept payments for outside activities arising primarily as a result of their chairmanship. In its report, the Committee undertook to offer guidance on the practical application of those principles, and on related matters.
3. This note, which has been prepared in response to that undertaking, has been approved by the Committee, following advice from the Parliamentary Commissioner for Standards. It covers both the question of declaration of interests by select committee chairmen and the principles to be observed by chairmen when considering accepting payment for activities outside the House.

### Declaration of interests in select committees

4. Present practice relating to declarations of interest in select committees, withdrawal from committee proceedings and procedures prior to the election of a chairman was approved by the House on 13 July 1992. It is based on a report by the then Select Committee on Members' Interests on the interests of Chairmen and Members of Select Committees (First Report from the Select Committee on Members' Interests, Session 1990–91 (HC 108)). The recommendations on procedures prior to the election of a chairman apply to all select committees except those of a “wholly procedural nature”.
5. The intention of the House was to ensure that, when the members of a select committee choose their chairman, they do so knowing his or her relevant interests. The presumption is that they will select a member whose effectiveness in that role will not be compromised by his or her outside interests.
6. The most common situation in which a committee needs to choose a chairman is when it first meets. Before then, or at that meeting, all members are required to declare their interests. They then proceed to choose a chairman. The fact that members have declared their interests is recorded in the Committee's Minutes of Proceedings. Besides registrable interests, members

---

<sup>1</sup> Seventh Report from the Committee on Standards and Privileges, Session 2002–03, HC 1292

declare relevant non-registrable interests, pecuniary and non-pecuniary. If it is necessary to choose a new chairman at any other time, the procedures used ensure that any prospective chairman's relevant interests are known to the committee.

7. Since 2001, details of individual members' declarations have also been published in full as an appendix to the relevant day's proceedings in the Committee's Minutes of Proceedings for the Session. In future, the Committee will also publish that day's Minutes of Proceedings separately, in the interests of transparency, as soon as practicable after the chairman has been chosen, and make them accessible through its website.
8. Given the broad scope of many departments' responsibilities, a chairman may occasionally find that he or she has a conflicting interest in relation to a specific inquiry. In such circumstances, if the difficulty cannot otherwise be resolved, the chairman stands aside from the inquiry.
9. If a chairman (or candidate for chairman) of a particular select committee has any questions about the application of this approach to his or her own circumstances, he or she should seek advice either through the Clerk of the committee in question or direct from the Registrar of Members' Interests. If necessary, the Registrar will consult the Parliamentary Commissioner for Standards about any particularly difficult or complex circumstances.
10. Declarations of interests ahead of the election of a chairman are in addition to, and not a substitute for, the requirement to declare at the appropriate times pecuniary (and, on occasion, non-pecuniary) interests that are relevant to specific inquiries and committee decisions. Such declarations are also formally recorded in the Minutes of Proceedings and, where appropriate, in the oral evidence. As with Chairmen's interests, the advice of the Registrar, and the Commissioner if necessary, is always available to Members on these matters.

### **Implications of payment for select committee chairmen**

11. The House accepted that the introduction of payment of select committee chairmen from public funds should not of itself lead to restrictions on chairmen's outside interests over and above those which already apply to all Members. However, it also accepted that limitations are appropriate on the circumstances in which chairmen should accept payment for an outside activity arising primarily from the chairmanship. The purpose of these limitations is to avoid any question of, or appearance of, any double payment—from both a chairman's salary and an outside interest. Nor should chairmen paid from public funds gain private benefit from work done, in whole or in part, with any assistance from public resources.
12. Limitations are only intended to apply where the outside activity in question arises primarily from the committee chairmanship. A pre-existing activity is in principle unlikely to fall within their scope, unless taken on in the expectation of assuming the chairmanship, or materially extended in scale thereafter. The limitations are not intended to catch anything done primarily in a personal or a constituency capacity, or where the committee chairmanship is incidental.
13. Furthermore, given that Members chosen as Select Committee chairmen tend to have been in the House for some time, there will undoubtedly be occasions when it is for this reason (rather than primarily because of their chairmanship) that they are invited, for example, to appear on current affairs programmes. Provided that the rules which apply to all Members on the registration of income from media appearances are observed, they would not be expected in these circumstances to decline payment on account of their chairmanship.
14. The decision of the House means that it will not be appropriate for a chairman to accept payment (as distinct from reimbursement of expenses incurred) in respect of anything such as a talk, address, interview, article, book review, contribution to a book, or media appearance, etc,

where the relevant invitation has been extended to the Member in his or her capacity as chairman of the select committee on X, or primarily because he or she is chairman of a select committee falling within the scope of the decision of the House of 30 October 2003. It will also not be appropriate for a chairman to accept payment for any outside activity in the preparation of which he or she has received substantial help from sources directly funded from the public purse, such as the Clerk or other staff of the Committee.

15. The key question a chairman should ask when weighing up whether payment is acceptable is “Had I not been chairman of the select committee on X, is it significantly less likely that I personally would have been asked to undertake this activity?” In formulating his or her response, a chairman is welcome to seek advice from the Registrar of Members’ Interests (Ms Alda Barry, extension 3277), who will if necessary consult the Parliamentary Commissioner for Standards.
16. The Committee on Standards and Privileges recognised that introducing the new restrictions in the course of a Parliament might cause difficulties for some chairmen. It therefore said that, as a transitional arrangement for the remainder of this Parliament, existing chairmen should have the option of electing either to receive payment from public funds, and accepting the restrictions set out above, or declining to receive payment, in which case their existing freedoms will remain unchanged. A chairman contemplating taking advantage of this transitional arrangement is also welcome to seek advice from the Registrar.

## Conclusion

17. The Committee on Standards and Privileges hopes that this advice will in particular be helpful to chairmen as they consider the implications of the House’s decisions on the payment of select committee chairmen. The Committee intends to keep the operation of this guidance under review in the light of experience, drawing on the advice of the Registrar of Members’ Interests and the Parliamentary Commissioner for Standards as appropriate.

**November 2003**

***Sir Philip Mawer***

## Appendix 4: Description of the arrangements for regulating standards of conduct in the House of Commons

---

1. Like many other aspects of the United Kingdom political system, the arrangements for regulating standards in the House of Commons 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.
2. 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.
3. 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

4. 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.”*
5. 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.”<sup>1</sup>*

6. 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.
7. 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.
8. 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

9. 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”.
10. 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;

---

<sup>1</sup> Cm 2850–1, paragraph 59

- 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

11. 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.”*<sup>2</sup>

12. 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—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.
13. 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.
14. The Register is compiled afresh at the start of every Parliament or 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

15. 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;

---

2 Select Committee on Members’ Interests, First Report, Session 1991–92, “Registration and Declaration of Financial Interests”, HC 236, paragraph 27

- 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 appointed for a five year, non-renewable term and is not liable to dismissal except on a resolution of the House.

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

16. 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 which are 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.

17. The Committee formally consists of 11 Members. Following the decision that the Committee should consist of an equal number of members drawn from the party of Government and from the Opposition parties respectively, the number actually appointed has been allowed to fall to 10, five drawn from the party of government and five from the opposition parties. Its Chairman is a senior opposition Member.

#### Does the system work?

18. The adequacy of the arrangements has been twice reviewed by the Committee on Standards in Public Life 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.”<sup>3</sup>*

19. More recently, the arrangements were the subject of further extensive scrutiny by the Committee. In its Eighth Report published in November 2002, the Committee found that:

---

3 Cm 4557–1, paragraph 3.2

*“... 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.”*<sup>4</sup>

It also concluded that:

*“... the fundamental structure of the current system for regulating standards of conduct in the House of Commons is sound...”*<sup>5</sup>

but made a number of recommendations designed further to strengthen the arrangements, all of which have been, or are being, acted upon.

***Sir Philip Mawer***

---

4 Cm 5663, paragraph 2.7

5 Cm 5663, paragraph 3.23