



House of Commons
Committee on
Standards and Privileges

***Review of *The Guide to
the Rules relating to
the conduct of
Members: Consultation
Document****

Sixteenth Report of Session 2005–06



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*Report and Appendix, together with formal
minutes*

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The Committee on Standards and Privileges

The Committee on Standards and Privileges is appointed by the House of Commons 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; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

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Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: www.parliament.uk/sandp. A list of Reports of the Committee in the present Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are Dr Christopher Ward (Clerk), Miss Libby Preston (Second Clerk) and Miss Michelle Owens (Secretary).

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Review of *The Guide to the Rules relating to the conduct of Members*: Consultation Document

1. On 25 April 2006, we decided to initiate a revision of the Guide to the Rules.¹ This revision is being conducted in the light of the decision of the House, implementing a recommendation of the Committee on Standards in Public Life, that both the Code of Conduct and the Guide should be reviewed once in each Parliament. A new Code was approved by the House on 13 July 2005.
2. To assist in this process, we are issuing the attached consultation document. Responses should be sent to the Clerk of the Committee at the Journal Office, House of Commons, London SW1A 0AA (or by e-mail to sandp@parliament.uk) to arrive by 31 October 2006.
3. Having taken account of the responses, we will submit a new draft Guide to the House.

¹ For the current text, see The Code of Conduct together with The Guide to the Rules relating to the conduct of Members (2005), HC 351 (2005-06).

APPENDIX: Revision of the Guide to the Rules: Consultation Document

Background

1. The Guide to the Rules relating to the Conduct of Members (“the Guide”) was last revised in 2002. The most notable changes made then were: the clarification of the advocacy rule (ie of the circumstances in which Members are restricted in the parliamentary proceedings they can initiate relating to the affairs of a body in which they have a financial interest) and the re-definition of the thresholds for registering interests in relation to percentages of a Member’s parliamentary salary. The threshold for registration of political donations or sponsorship (Category 4) was also aligned with that of the Electoral Commission.

2. In June 2003 the House undertook to review the Code of Conduct and Guide to the Rules relating to the Conduct of Members once in every Parliament (this decision followed a recommendation of the Committee on Standards in Public Life). On 13 July 2005, following a public consultation exercise, the House adopted an amended Code of Conduct.

3. The Committee has now turned its attention to the second part of the undertaking. It has already given Members an initial opportunity to comment on the existing rules; very few have done so. The Committee has now identified a few areas where change may be appropriate. These are set out below, and comment is invited on them.

4. For ease of reference, a version of the Guide incorporating suggested changes (in some cases with a number of options) is annexed. Words proposed to be left out are ~~struck through~~ and those proposed to be added are in *italics*. In a number of cases lengthy paragraphs have been split to make the Guide easier to follow.

5. The Committee will make a further report in the autumn taking account of comments received and of the further changes which will be needed if the provisions relating to Members’ donation reporting requirements (see below) in the Electoral Administration Act 2006 are to be fully implemented, and making recommendations.

6. The Committee intends that, if the House agrees to amend the Rules, the next printed edition of the Register of Members’ Interests will be compiled on the new basis.

The Electoral Administration Act 2006

7. An additional dimension has been added to this review by the enactment of the Electoral Administration Act 2006, the provisions in which pave the way for a ‘one-stop shop’ for the registration of Members’ interests, relieving Members of the dual obligation to register certain interests not only with the House authorities but also (under the requirements of the Political Parties, Elections and Referendums Act 2000 (PPERA)) with the Electoral Commission. This was done in the interests of improved compliance as well as the greater convenience of Members. The Act also imposes a new requirement to register certain loans received for political purposes.

8. If the relevant provisions of the Electoral Administration Act are to be fully implemented, there will be need to be consequential changes in the House's rules in order to import into the Register of Members' Interests the full requirements of PPERA. These have yet to be fully explored with the Electoral Commission. The Committee thought it best, however, not to delay the wider consultation process while this is done. The decision as whether or not to amend the Rules for this purpose is primarily a matter for the House itself and should involve no new matters of principle as it will not, of itself, extend the scope of the information Members are required to make public.

Purpose and scope of the review

9. The primary objective of the present review is not to revisit the principles of the House's system for ensuring transparency—which were covered in the review of the Code itself—but to ensure that the Guide continues to reflect current practice and guidance in a coherent, comprehensive and accessible way, while at the same time providing a general framework within which suggestions for change, from Members and others, can be examined. Where possible, the aim is to take advantage of the opportunity offered by the review to clarify and simplify the present guidance for the benefit of Members and the public.

10. Experience since the last review of the Guide suggests that there is no need for major revision. For the most part, the changes suggested reflect changes in the context in which the Rules must be interpreted. The opportunity has also been taken to suggest a few stylistic and drafting changes, aimed at improving the clarity of the text, and to remove a number of obsolete provisions.

11. The changes proposed below should not in general increase the regulatory burden on MPs. In the case of those few which may seem to (mainly under Category 9), the countervailing benefits may be seen to outweigh the disadvantages.

Issues to be addressed

The Register

12. A large part of the Guide concerns the requirements of the Register of Members' Interests. When considering proposals for change to the Guide, respondents might like to bear in mind the principles underlying the Register at its inauguration. These were set out by the Select Committee on Members' Interests in its report of Session 1974-75¹. The Committee wrote that the purpose of the Register was “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”. The Committee also stated that ‘the Register is not designed to indicate a Member's wealth, but only the sources of those interests which might influence his parliamentary conduct’; defended the Member's right to a proper degree of privacy; and deliberately made the

¹ HC (1974-75), 102.

requirement to register shareholdings ‘subject to the shareholdings being within the knowledge of the Member’. With only minor modifications, including the introduction of financial thresholds for registration, these principles continue to underlie the Register to this day.

13. The 1974 Committee also distinguished between the requirement to put certain interests on the permanent record by registering them, and the need to declare them, and others, in the House when they became relevant to a particular debate or proceeding. This principle, too, continue to underlie the practice of the House.

Register issues for decision

(1) Title of Register

14. The only non-pecuniary interests which are required to be registered (under the category ‘Miscellaneous’) are those which fall within the main purpose of the Register or ‘which the Member considers might be thought by others to influence his or her actions in a similar manner even though the Member receives no financial benefit’.

15. In recent years, strict application has been encouraged of the rule regarding the registration of non-pecuniary interests. Few such entries are now made under Category 10, and these are mainly potential pecuniary interests, such as: non-practising membership of a profession; pecuniary interests which fall below the registration threshold but may be considered to be of political significance (as might be shareholdings in a company which is politically sensitive); trusts (but see paragraphs 12 above and 43 to 51 below); and outside activities with a clear parliamentary connection.

16. Parliamentary use of the word ‘interest’ is now somewhat archaic. It is used to mean ‘financial or material interest’ (cf the requirements in respect of *locus standi* in respect of private legislation). In more common contemporary usage, ‘interest’ is understood to mean ‘matters in which a person takes an interest’, and this discrepancy can cause misunderstandings about the purpose and scope of the Register.

17. The term ‘pecuniary’ is also perhaps rather out-dated and might with advantage be replaced with ‘financial’.

18. The purpose of the Register might be better communicated if it were to be re-titled ‘**Register of Members’ Financial Interests**’ despite the anomaly of the small number of non-pecuniary (or financial) interests which are still properly recorded under Category 10.

Question 1: Should the Register of Members’ Interests in future be entitled the Register of Members’ Financial Interests?

(2) Category 2 (Remunerated employment, office, profession etc)

Membership of Lloyd’s

19. The rubric to Category 2 refers to ‘Employment office, trade, profession or vocation (apart from membership of the House or ministerial office) which is remunerated or in which the Member has any pecuniary interest. Membership of Lloyd’s should be registered under this Category’. This wording dates from a time when membership of Lloyd’s was

more common among Members than it is now², and when the institution itself was the subject of intense political debate.

20. Membership of Lloyd's is currently the subject of a paragraph in the rules, as follows:

'20. Members who have resigned from Lloyd's should continue to register their interest as long as syndicates in which they participated continue to have years of account which are open or in run-off. The date of resignation should be registered in such circumstances. Members of Lloyd's are also required to disclose the categories of insurance business which they are underwriting. Any member of Lloyd's receiving financial assistance (including relief from indebtedness or other loan concessions but excluding any general settlement available to all Lloyd's members) from a company, organisation or person within or outside the United Kingdom should register that interest under Categories 5 or 7, as appropriate'.

21. Lloyd's is no longer the headline-catching institution it was. This suggests, not that the obligation in paragraph 20 of the Guide should be withdrawn (that would be too big a step), but that the time may have come to relegate the content of paragraph 20 to a footnote.

Question 2: Should membership of Lloyd's, and associated matters, be removed from the body of the rules and referred to instead in a footnote?

(3) Category 3 (Clients)

22. Paragraph 24 currently reads:

'Under this Category, if a Member is employed as a parliamentary adviser by a firm which is itself a consultancy and therefore is providing such advice and services to its clients, the Member should disclose those of the consultancy's clients with whom he or she has a personal connection or who benefit from the Member's advice and services. The same requirement applies where a Member, on his or her own account, accepts payment or material benefit for providing such services, but not on such a regular basis as to warrant registration as employment under Category 2. Where a company is named as a client, the nature of the company's business should be indicated.

23. The suggestion that a Member should register under this category where they, on their own account, accept payment or material benefit for providing services in parliamentary capacity has long been overtaken by the practice of registering such 'one-off' employment under Category 2, with a payment band. In the light of this, the paragraph above might be replaced by:

'If a Member is employed as a parliamentary adviser by a firm which is itself a consultancy, he or she should register under this category any clients of that firm to which he or she has personally provided the kind of services described in paragraph

² Currently registered are four active and three former members of Lloyd's and one Member is a member of the Council of Lloyd's. See paragraph 24 of the attached draft Guide.

27 above. In addition, the Member should register any clients of the consultancy which he or she knows have benefited from such advice’.

Question3: Should the reference to occasional work as a consultant be removed from the Category and the wording be revised as suggested?

(3) Category 4 (Sponsorship)

24. Besides the proposals set out below, this Category will be considerably affected if the one-stop registration provision in the Electoral Administration Act is to be brought into force; in particular, more details will be required about donors and the amount or value of donations. The Committee will return to this at a later stage, but respondents are, of course, free to raise relevant matters now.

25. Members are required to register under this Category:

- a) Any donation received by a Member’s constituency association, which is linked either to candidacy at an election or to membership of the House; and
- b) any other form of financial or material support as a Member of Parliament,

amounting to more than £1,000 from a single source, whether as a single donation or as multiple donations of more than £200 during the course of a calendar year.

26. Paragraph 26 of the current Guide reads ‘Category 4(a) deals with financial contributions. Support should be regarded as ‘linked’ directly to a Member’s candidacy or membership of the House if it is expressly tied to the Member by name, e.g. if it is a contribution to the Member’s fighting fund or a donation which has been solicited or encouraged by the Member. Financial contributions to constituency associations which are not linked to a Member’s candidacy or membership of the House do not have to be registered’.

27. A number of difficulties of interpretation arise in respect of this Category, in particular in respect of whether a donation was ‘linked’ to a Member or candidate. Further, no time-frame is given to indicate how far back before election the requirement to register donations received as a candidate applies (though the Committee has indicated that it should be equal to the requirement on Members).

28. The reference to ‘constituency associations’ does not accurately describe the way in which all parties govern their affairs on a local basis.

29. Pending consideration of the requirements of PPERA, it is suggested that the guidance be re-cast as follows (wording in italics to be added, wording struck through to be deleted):

‘Category 4

Sponsorships:

- a) Any donation received by a Member’s constituency *party or* association, *or relevant grouping of associations*, which is linked either to candidacy at an election or to membership of the House; and
- b)

Category 4(a) deals with financial contributions to constituency parties or associations, or (where the party is organised otherwise than on a constituency basis) the relevant grouping of associations. Support should be regarded as “linked” directly to a Member’s candidacy or membership of the House if it is expressly tied to the Member by name, e.g. if it is a contribution to the Member’s fighting fund or a donation which has been ~~solicited~~ *invited* or encouraged by the Member *or candidate*. Financial contributions to constituency associations, parties or area associations, etc which are not linked to a Member’s candidacy or membership of the House, *that is where the money would have been forthcoming irrespective of the identity of the candidate or Member, and they played no personal part in securing it*, do not have to be registered (*such non-registrable agreements are, in the Labour Party, frequently of a kind known ‘constituency development agreements’*).

Members who were not sitting Members in the previous Parliament should register all donations linked to their candidacy received in the twelve month period before the date on which they submit their returns to the Registrar.³

It is not possible to give an exhaustive list of what might be considered ‘linked’ to an individual, and, as always, Members who are in any doubt should consult the Registrar⁴. They are also reminded that they are only required to register donations of which they are aware, or might reasonably be expected to be aware.’

Question 4: Should the registration requirements in respect of Category 4(a) be amended as suggested?

(4) Category 9 (Shareholdings)

30. Category 9 requires the registration of ‘interests in shareholdings held by the Member, either personally, or with or on behalf of the Member’s spouse or partner or dependent children, in any public or private company or other body which are:

- a) greater than 15 per cent of the issued share capital of the company or body; or
- b) 15 per cent or less of the issued share capital, but greater in value than the current parliamentary salary’.

31. The Category poses a number of problems in respect of registration.

Shares whose market price cannot be ascertained

32. In the case of publicly-quoted shares, the value for registration purposes is taken as the market value at the previous 5th April. The Guide adds that ‘if the market price cannot be

³ This ensures that their entries cover the same period as those of returned Members.

⁴ Members might, however, ask themselves such questions as: ‘Did I write to or meet the donor asking for a contribution?’; ‘Was a letter sent out headed ‘Campaign to [Re-]Elect [Name]?’; ‘Was I the guest of honour at a dinner where donations were sought?’ and ‘Have I a particular relationship to the donor which would not be the case in respect of another candidate?’ If the answer to any of these is ‘Yes’, then the presumption should be in favour of registration.

ascertained... the nominal value of the shares should be taken instead'. The nominal value however, bears no necessary relationship to the actual value.

33. Members may reasonably be expected to have a good idea of the value of the assets they hold. The registration requirement would be more meaningful if Members were required to estimate the value of unquoted shares and register them accordingly.

Question 5: Should Members be asked to estimate the value of unquoted shares and register them accordingly?

Collective investment schemes

34. The current Guide refers to 'shareholdingsin any public or private company or other body.....'. This definition includes investment trust companies, but not unit trusts which, being trusts rather than companies, do not issue 'shares'. Unit trust holdings have therefore never been registrable.

35. The last decade has seen the emergence of a new type of collective investment vehicle , the Investment Company with Variable Capital (ICVC) (also known as Open Ended Investment Companies (OEICs)) as an increasingly popular alternative to unit trusts which, in practical terms to the investor, they closely resemble. For technical and marketing reasons, many existing unit trusts have converted to ICVCs, and these are increasingly used for new collective investments that would once have been launched as unit trusts. ICVCs are corporate entities (like investment trust companies, holdings in which have always been registrable) and holdings in them are 'shareholdings'.

36. Holdings in ICVCs thus fall within the existing definition of 'shareholdings' in Category 9. The growing number of ICVCs, both new and resulting from conversions of unit trusts, is therefore extending the range of interests which Members are required to register under this category.

37. It is worth noting in this context some of the differences in character between investments in collective investment vehicles, irrespective of their precise structure, and those in individual companies. Collective investment vehicles hold a range of investments, to spread the underlying risk. They are in effect, wrappers managed by a third party for a package of investments. In contrast to directly-held investments, the individually investor has no control over the choice of the investments, and the extent of their knowledge of them is limited to that provided, usually half-yearly in arrears, by the managers. In contrast to directly-held investments, the investor therefore has no certain knowledge at other times as to whether the fund holds a particular investment.

38. There appear to be four general options, each of which has advantages and disadvantages. These are:

- i) retention of the *status quo*;
- ii) exemption of publicly-available authorised ICVCs from registration;
- iii) exemption of all publicly-available authorised investment companies from registration; and

- iv) as option (iii), but requiring Members to register any underlying individual shareholdings whose value exceeded the current parliamentary salary.

39. The effect of option (i) would be gradually to extend the range of investments that Members are required to register, as new ICVCs come on to the market or are created by conversion of existing unit trusts. It would therefore tend to increase over time the registration burden on Members, essentially because the preferred legal structure for some collective investment vehicles had changed, rather than as a result of any change of policy in relation to the scope of registrable interests.

40. Option (ii) would prevent the increased burden of option (i), but would create an anomaly in that holdings in investment trusts companies, a corporate investment vehicle of similar purpose but different structure,⁵ would remain registrable. Confusion might well arise if the need to register particular investments was determined solely by their corporate structure.

41. Option (iii) would represent a modest simplification of the existing requirement for Members, albeit at the cost of a slight loss of transparency in relation to investment trust company holdings (although the requirements relating to *declaration* would remain unchanged).

42. Option (iv) would require Members to check the information sent to them by the managers, and to register any underlying shareholdings of the appropriate value. In practice, given the typical spread of investments held by such companies, very large holdings would be required to trigger the registration requirements.⁶ The question would also need to be addressed as to whether, when an underlying investment was common to more than one holding, these should be aggregated for registration purposes. This would undoubtedly be, for Members, the most complex of the four options.

Question 6: Having regard to the four options set out above, should the rules governing the registration of shareholdings apply to publicly-available investment companies (including investment trust companies and ICVCs)

- a) *worth more than the current parliamentary salary, or*
- b) *that where a Member has holdings in such companies should he or she be required to make reasonable inquiries to ascertain whether his or her underlying holding in respect of any individual company is of a size which would make it registrable if held independently, and register it if that is the case.*

5 Investment trust companies are 'close-ended', having a set number of shares whose price is set by market forces, whereas ICVCs are 'open-ended', having a variable number of shares whose price is determined solely by the value of the underlying assets of the company.

6 If a particular holding constituted 10% of the company's investments by value, an overall holding worth about £600,000 would be required to trigger the registration requirement; at 5%, the equivalent figure would be about £1.2million.

(5) Trusts

43. The present requirements on the registration of trusts are unclear. As a result these are registered somewhat haphazardly and in a way which is out of line with other benefits.

44. There are two references to trusts in the Guide to the Rules, and both refer to overseas trusts. Under Category 9 (Shareholdings), Members are required to register ‘identifiable holdings of overseas trusts of which they are actual or potential beneficiaries’ and under Category 10 (Miscellaneous) they ‘should register potential or actual interests in overseas trusts except where these have been registered under Category 9’.

45. The requirement to register overseas trusts was introduced in response to a specific case on which the Committee reported in Session 1997-98⁷. It is thought that overseas trusts were singled out because they had at the time certain tax advantages which the Committee understands no longer apply.

46. The framers of the original rules governing registration addressed only tangentially the issue of trusts. When enunciating the principle that the obligation to register shareholdings was subject to them being within the knowledge of the Member, they wrote ‘A Member may be the beneficiary of a trust and unaware of the nature of the trust’s shareholdings. He may be unaware of his wife’s shareholdings. If a Member has no knowledge of a particular holding he cannot be thought to be influenced by it’.

47. Since 1974, even apart from the question of overseas trusts, the House’s practice in respect of trusts has been somewhat confused by decisions in specific cases. In 1999 the Committee reported on a case involving a trust⁸. In this it found that since neither the Member, his wife nor his dependent children had any beneficial interest in the trust, there was no requirement on the Member to register it. It did not address the question of the position if the Member had benefited, but been unaware of the trust’s holdings. On the basis of this precedent and the precautionary principle, a practice has grown up over the years of advising Members who are actual or potential beneficiaries of trusts to register this fact (while, as always, leaving the decision for the Member to take in the light of the overall purpose of the Register).

48. The registration of potential benefit from a trust, being by definition a benefit which may accrue in the future, may seem particularly anomalous. In other cases of expected benefit Members are expected to declare it in a relevant proceeding but not to register it.

49. It is also relevant that, in line with the principles set out in paragraph 12, there is no requirement to register ‘blind trusts’. These are deliberately set up so that the Member does not know where the trust’s assets are held, and the Committee has advised Members accordingly. (Registration *is* advised where identifiable interests are broken out of such a trust so that the Member becomes aware of them). Nor are legacies, once received, in themselves regarded as registrable, though they may include elements, such as houses, which are registrable.

7 HC (1997-98), 488

8 HC (1998-99), 352

50. In general, similar arguments apply to the registration of trusts as apply to collective investment vehicles.

51. Current practice in relation to the registration of trusts is uncertain. It might be beneficial for the rules to be clarified and question 7 below gives a variety of options whereby this could be achieved.

Question 7: Should the rules be amended to remove the existing references to overseas trusts, so that all trusts are regulated under the same basis?

Question 8: Should trusts, or any specific types of trusts, be registrable. If so, should the rules be amended to specify that

- a) *A Member who benefits from a trust should register it under this category if the total holdings of the trust are worth more than the current parliamentary salary; **or***
- b) *A Member who benefits from a trust which brings in an income of more than 1 per cent of the current parliamentary salary should register it under this Category;*
- c) *A Member who has placed his or her assets in a 'blind trust' so that he or she is not aware of and has no control over the assets should not be under any obligation to register?*

(7) Pensions

52. It has never been the case that being in receipt of, or expecting, a pension should be registrable in itself (though in certain circumstances it may be declarable). In recent years, however, the legal framework governing pensions has been altered to the point where, taking account of the purpose of the Register, in some cases registration might be considered appropriate. Such cases include self-invested personal pensions (SIPPs) where the person who creates the scheme knows and controls the investments which are therefore virtually indistinguishable in this respect from personal shareholdings.

Question 9: Should the Rules should require the registration of identifiable holdings of registrable value which are held within Members' personal pension plans?

53. When considering the questions in paragraphs 34 to 52 above, respondents should bear in mind that, even if collective investments, trusts and certain pension holdings were not, or were no longer, registrable of themselves, the obligation to declare relevant interests where they were relevant to debate or parliamentary proceedings would remain. This requirement extends beyond direct and current interests to indirect and expected future interests. Thus, if the House were debating trust law it would still be incumbent on a Member to declare that he or she was a beneficiary of a trust, or, indeed expected to be one.

Other issues

(8) Declaration

Past interests

54. The rules of the House require the declaration, where appropriate, of immediate past interests. (For the purposes of the rule against lobbying for reward or consideration, they

are regarded as having been relinquished with immediate effect). Immediate past interests are defined as interests which have been relinquished, but are included in the current printed edition of the Register.

55. In practice this definition means that Members are required to declare interests for varying periods after they have ceased to hold them. As an example, if a printed edition of the Register is dated February, a Member who relinquishes an interest in January is technically absolved from declaring it from February onwards, while a Member relinquishing one in March must declare it until the next printed edition, which may be twelve months away. It might be more equitable to change the rule to require the declaration of a past interest for a fixed period, such as twelve months after it has ceased to be current.

Question 10: Should the rules make clear that past interests are declarable for twelve months after they have ceased to be current, and would twelve months be an appropriate period?

(9) Interests common to all Members

56. From time to time the question arises of whether Members should declare interests which are common to all of them. All expect pensions of some kind, for instance, and all are employers. It has been ruled that there is no need for every Member speaking on employment legislation automatically to declare an interest, and it would seem appropriate to clarify the rules to indicate that only in special circumstances—for instance in the case of employment legislation perhaps the employment of staff otherwise than as a Member of Parliament—should such general interests be declared.

Question 11: Should the Guide be amended to show that interests shared by all Members as Members are not declarable?

(10) Complaints procedure

57. The Guide describes briefly the system whereby complaints that Members have broken the Code or the Rules may be made and investigated. There are a number of exclusions from the Commissioner's jurisdiction, approved by the Committee, which appear in the leaflet sent to complainants but not in the Guide. This can lead to misunderstanding or frustration among would-be complainants. It might be better if the exceptions to the Commissioner's jurisdiction were written into the Guide to the Rules.

Question 12: Should the Guide be amended to specify the exclusions from the Commissioner's jurisdiction?

58. The Standing Orders provide for a rectification procedure to be used by the Commissioner, as an alternative to reporting to the Committee, in certain circumstances, in cases relating to Members. It has become the practice for the Commissioner, with the agreement of the Committee, to apply these also, *mutatis mutandis*, to complaints of non-registration by Members' staff, all-party groups and journalists. It might therefore be appropriate for the Guide to reflect this development in practice.

Question 13 Should the Guide be amended to make clear the scope of the rectification procedure?

59. There may be other issues within the terms of reference of this review which the Committee has not identified in this paper but which others think should be considered in any revision of the Guide. If so, the Committee would be glad to hear of them.

Question 14: Are there any other issues covered by the terms of the review to which the Committee should direct its attention?

Responses

60. Responses to this consultation document should be sent to the Clerk of the Committee on Standards and Privileges, Journal Office, House of Commons, London SW1A 0AA, or by e-mail to sandp@parliament.uk, to arrive by 31 October 2006.

Annex: Revised Guide to the Rules relating to the conduct of Members: Draft for Consultation

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Revised Guide to the Rules relating to the conduct of Members: *Draft for Consultation*

NOTE: This document is based on the current version of the Guide, as published in HC 351. New text is shown in *italics*, and deleted text is shown in ~~strike through~~.

Introduction

1. *The purpose of this Guide is to assist Members in discharging the duties placed upon them by the Code of Conduct agreed by the House. It replaces the Guide approved by the House on 14 May 2002 (HC 841 (2001-02)). The rules described in this Guide derive their authority from Resolutions of the House, rather than from statute or common law, and are therefore enforceable by the House of Commons.*
2. No written guidance can provide for all circumstances, *and the examples included in this Guide should not be regarded as constituting an exhaustive list*; when in doubt Members should seek the advice of the Parliamentary Commissioner for Standards (“the Commissioner) *or the Registrar of Members’ Financial Interests (“the Registrar”)* who, if necessary, will seek adjudication from the Committee on Standards and Privileges.
3. The Guide is divided into four Sections dealing with (1) Registration of Interests (paragraphs 11–64); (2) Declaration of Interests (paragraphs 65–81); (3) Lobbying for Reward or Consideration (paragraphs 82–95) and (4) Procedure for Complaints (paragraphs 96–108).
4. The Code of Conduct provides a framework within which acceptable conduct should be judged. The purpose of the Resolution of 6th November 1995 relating to “Conduct of Members” is to remove a major area of potential conflict of interest by prohibiting lobbying for reward or consideration. This Guide contains guidelines (paragraph 88) to assist Members in applying the rule. A further rule (paragraph 95) deals with the conflict of interest that may arise when a Member holding a relevant financial interest takes part in a delegation involving the source of that interest.
5. Other Resolutions of the House, agreed on 19th July and 6th November 1995, supplement and strengthen the long established rules on disclosure of financial interest.
6. The House has two distinct but *overlapping and independent* ~~related~~ mechanisms for the disclosure of the personal financial interests of its Members: registration of interests in a Register which is open for public inspection; and declaration of interest in the course of debate in the House and in other contexts.
7. The main purpose of the Register is to give public notification on a continuous basis of those pecuniary interests held by Members which might be thought to influence their parliamentary conduct or actions.
8. The main purpose of declaration of interest is to ensure that fellow Members of the House and the public are made aware, at the appropriate time when a Member is making a speech in the House or in Committee or participating in any other proceedings of the

House, of any past, present or expected future pecuniary interest, *direct or indirect*, which might *reasonably be thought* to be relevant to those proceedings.

9. The Resolution of 19th July 1995 provides for declaration of interest in respect of all written notices (paragraph 71). The Resolution of 6th November 1995 relating to certain agreements for the provision of services requires the deposit of such agreements with the Commissioner for Standards (paragraphs 58–64).

10. Ministers of the Crown who are Members of the House of Commons are subject to the rules of registration and declaration in the same way as all other Members (although Ministerial office is not registrable and the restrictions imposed by the ban on lobbying for reward or consideration do not apply to Ministers when acting in the House as Ministers). In addition, Ministers are subject to further guidelines and requirements laid down by successive Prime Ministers in order to ensure that no conflict arises, or appears to arise, between their private interests and their public duties (“The Ministerial Code” (http://www.cabinetoffice.gov.uk/propriety_and_ethics/ministers/ministerialcode)). These requirements are not enforced by the House of Commons and so are beyond the scope of this Guide.

1. Registration of Members' Interests

Rules of the House

"Every Member of the House of Commons shall furnish to a Registrar of Members' Interests such particulars of his registrable interests as shall be required, and shall notify to the Registrar any alterations which may occur therein, and the Registrar shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public."

(Resolution of the House of 22nd May 1974)

"For the purposes of the Resolution of the House of 22nd May 1974 in relation of disclosure of interests in any proceeding of the House or its Committees, any interest declared in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division of the House or in any of its Committees."

(Part of the Resolution of the House of 12th June 1975)

11. Under the Resolution agreed by the House on 22nd May 1974, and under the Code of Conduct, Members are required to register their pecuniary interests in a Register of Members' *Financial* Interests. The duty of compiling the Register ~~now~~ rests with the ~~Parliamentary Commissioner for Standards~~, whose functions are set out in Standing Order No. 150. The Commissioner is assisted by the Registrar of Members' *Financial* Interests.

Definition of the Register's purpose

12. The main purpose of the Register of Members' *Financial* Interests 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 The registration form specifies ten Categories of registrable interests which are described below. Apart from the specific rules, there is a more general obligation upon Members to keep the overall definition of the Register's purpose in mind when registering their interests.

13. The purpose of registration is openness. Registration of an interest does not imply any wrongdoing.

Duties of Members in respect of registration

14. Members of Parliament are required to complete a registration form and submit it to the Commissioner ~~for Standards~~ within three months of their election to the House (whether at a general election or a by-election). After the initial publication of the Register (or, in the case of Members returned at by-elections, after their initial registration) it is the responsibility of Members to notify changes in their registrable interests within four weeks of each change occurring.

1 Select Committee on Members' Interests, First Report, Session 1991–92, "Registration and Declaration of Financial Interests", HC 236, paragraph 27.

15. Any Member ~~having~~ *who has* a registrable interest which has not at the time been registered, shall not undertake any action, speech or proceeding of the House (~~save except~~ voting) to which the registration would be relevant until ~~notification has been given to he or she has notified~~ the Commissioner for Standards of that interest.

16. Members are responsible for making a full disclosure of their interests, and if they have relevant interests which do not fall clearly into one or other of the specified categories, they are nonetheless expected to register them.

17. A reference in any Category to a spouse includes a Member's partner.

18. Interests the value of which does not exceed 1 per cent of the current parliamentary salary do not generally have to be registered. All single benefits of whatever kind which exceed that threshold should be registered in the appropriate Category (unless a higher threshold is specified in the relevant Category). All benefits received from the same source in the course of a calendar year, which cumulatively amount to more than 1 per cent of the current parliamentary salary, should also be registered. In addition, if a Member considers that any benefit he or she has received falls within the definition of the main purpose of the Register set out in paragraph 12, even though it does not exceed the 1 per cent threshold, the Member should register it ~~in the appropriate Category or under~~ Category 10 (Miscellaneous).

Publication and public inspection

19. The Register is published *under the authority of the Committee of Standards and Privileges in printed form* soon after the beginning of a new Parliament, ~~under the authority of the Committee on Standards and Privileges~~, and annually thereafter. Between publications the Register is regularly updated *electronically*. *The current version and a number of previous editions are in a loose leaf form and, in that form, is* available for public inspection in the Committee Office of the House of Commons. ~~†~~*The Register* is also available on the Internet. At the discretion of the Commissioner copies of individual entries in the Register may be supplied on request.

The Categories of Registrable Interest

[Note: Each of the boxes in this section contains a description of one of the Categories of interest which the House has agreed should be registered and which appear in the registration form]

Category 1

Directorships: Remunerated directorships in public and private companies including directorships which are individually unremunerated, but where remuneration is paid through another company in the same group.

20. In this Category, and in others, “remuneration” includes not only salaries and fees, but also the receipt of any taxable expenses, allowances, or benefits, such as the provision of a company car. Remuneration which in the course of a calendar year does not exceed 1 per cent of the current parliamentary salary may be disregarded. ~~It is necessary to~~ *Members must* register the name of the company in which the directorship is held and ~~to~~ give a broad indication of the company's business, where that is not self-evident from its name. In addition to any remunerated directorships, a Member is also required to register any

directorships he or she holds which are themselves unremunerated but where the companies in question are associated with, or subsidiaries of, a company in which he or she holds a remunerated directorship. Otherwise, Members are not required to register unremunerated directorships (~~see Category 10.~~), *but may do so under Category 10 if they consider the relevant test to be met.*

21. Companies which have not begun to trade or which have ceased trading need not be registered, either under this Category or under Category 9 (Shareholdings). “Not trading” should, however, be interpreted in a strict sense; if a company is engaged in any transaction additional to those required by law to keep it in being, then a remunerated directorship in that company should be registered. If a Member wishes to register a directorship in a company which is not trading the Member should make the position clear by adding the words “not trading” after the name of the company.

22. *A Member who holds a registrable directorship, including a non-executive directorship, who provides services in the capacity of a Member of Parliament, is required to deposit with the Office of the Parliamentary Commissioner for Standards, for public inspection if required, such an agreement for the provision of services as is described in paragraphs 60 to 64 below. ‘Services in the capacity of a Member of Parliament’ is usually taken to mean advice on parliamentary matters, or services connected with any parliamentary proceeding or otherwise related to the House. Essentially, when Members are considering whether an agreement is necessary they should ask themselves ‘Would I be doing this job, in this way, if I were not an MP?’, and seek an agreement if the answer is ‘No’.*

23. *Additionally, members providing services in the capacity of a Member of Parliament should register their annual earnings in bands of £5000 (eg up to £5,000, £5001-£10,000).*

Category 2

Remunerated employment, office, profession, etc: Employment, office, trade, profession or vocation (apart from membership of the House or ministerial office) which is remunerated or in which the Member has any pecuniary interest. Membership of Lloyd’s should be registered under this Category²

24. All employment outside the House and any sources of remuneration which do not fall clearly within any other Category should be registered here if the value of the remuneration exceeds 1 per cent of the current parliamentary salary. When registering employment, Members should not simply state the employer company and the nature of its business, but should also indicate the nature of the post which they hold in the company or the services for which the company remunerates them. Members who have paid posts as consultants or

2 Members who have resigned from Lloyd’s should continue to register their interest as long as syndicates in which they participated continue to have years of account which are open or in run-off. ~~The date of resignation should be registered in such circumstances.~~ *In such circumstances Members should register the date of resignation.* Members of Lloyd’s are also required to disclose the categories of insurance business which they are underwriting. Any member of Lloyd’s receiving financial assistance (including relief from indebtedness or other loan concessions but excluding any general settlement available to all Lloyd’s members) from a company, organisation or person within or outside the United Kingdom should register that interest under Categories 5 or 7, as appropriate.

advisers should indicate the nature of the consultancy, for example “management consultant”, “legal adviser”, *information technology consultant* “parliamentary and public affairs consultant”. *The occasional provision of services in the capacity of a Member of Parliament should also be registered here, with the appropriate remuneration band.*

25. *As with Category 1, a Member who is regularly providing services in the capacity of a Member of Parliament should obtain an agreement for the provision of services and register their earnings in bands of £5000. In the case of media work there is no requirement to obtain an agreement, but the earnings band must be registered. For further guidance on media work see paragraph 64.*

26. Members who have previously practised a profession *of which they remain a member* may wish to register that profession ~~under this Category~~ with a bracketed remark such as “[non practising]” after the entry. This is particularly desirable in cases of sleeping partnerships and where it is likely that the Member will resume the profession at a later stage. *Such interests should be registered under Category 10.*

Category 3

Clients: In respect of any paid employment registered in Category 1 (Directorships) and Category 2 (Remunerated employment, office, profession, etc.), any provision to clients of services which depend essentially upon, or arise out of, the Member’s position as a Member of Parliament should be registered under this Category. All clients to which personal services are provided should be listed together with the nature of the client’s business in each case. Where a Member receives remuneration from a company or partnership engaged in consultancy business which itself has clients, the Member should list any of those clients to whom personal services or advice is provided, either directly or indirectly.

27. The types of services which are intended to be covered here include those connected with any parliamentary proceeding, or other services relating to membership. A Member who has clients in a non-parliamentary professional capacity (for example as a ~~solicitor~~ doctor, *IT consultant* or accountant) is not required to register those clients, provided it is clear beyond doubt that the services which are being provided do not arise out of or relate in any manner to membership of the House.

28. *If a Member is employed as a parliamentary adviser by a firm which is itself a consultancy, he or she should register under this category any clients of that firm to which he or she has personally provided the kind of services described in paragraph 27 above. In addition, the Member should register any clients of the consultancy which he or she knows have benefited from such advice. Under this Category, if a Member is employed as a parliamentary adviser by a firm which is itself a consultancy and therefore is providing such advice and services to its clients, the Member should disclose those of the consultancy’s clients with whom he or she has a personal connection or who benefit from the Member’s advice and services. The same requirement applies where a Member, on his or her own account, accepts payment or material benefit for providing such services, but not on such a regular basis as to warrant registration as employment under Category 2. Where a company is named as a client, the nature of the company’s business should be indicated.*

Category 4**Sponsorships:**

- (a) Any donation received by a Member's constituency *party or association, or relevant grouping of associations* which is linked either to candidacy at an election or to membership of the House; and
- (b) any other form of financial or material support as a Member of Parliament,
- amounting to more than £1,000 from a single source, whether as a single donation or as multiple donations of more than £200 during the course of a calendar year.

29. This category deals with sponsorship or other forms of support by companies, trade unions, professional bodies, trade associations and individuals. Political donations which Members are required to report to the Electoral Commission should be registered under this category unless:

- a) it would be more appropriate to register them under another Category, such as Category 5 (Gifts, benefits and hospitality (UK)) or Category 6 (Overseas visits), or
- b) they are exempt from registration.

30. Category 4(a) deals with financial contributions to constituency *parties or associations, or (where the party is organised otherwise than on a constituency basis) the relevant grouping of associations*). Support should be regarded as “linked” directly to a Member's candidacy or membership of the House if it is expressly tied to the Member by name, e.g. if it is a contribution to the Member's fighting fund or a donation which has been ~~solicited~~ *invited* or encouraged by the Member *or candidate*. Financial contributions to constituency associations, *parties or area associations etc* which are not linked to a Member's candidacy or membership of the House, *that is where the money would have been forthcoming irrespective of the identity of the candidate or Member, and they played no personal part in securing it*, do not have to be registered (*such non-registrable agreements are, in the Labour Party, frequently of a kind known 'constituency development agreements'*).

31. *Members who were not sitting Members in the previous Parliament should register all donations linked to their candidacy received in the twelve month period before the date on which they submit their returns to the Registrar.*³

32. *It is not possible to give an exhaustive list of what might be considered 'linked' to an individual, and, as always, Members who are in any doubt should consult the Registrar.*⁴

³ This ensure that their entries cover the same period as those of returned Members.

⁴ Members might, in this context, ask themselves such questions as: 'Did I write to or meet the donor asking for a contribution?'; 'Was a letter sent out headed 'Campaign to [Re-]Elect [Name]?'; 'Was I the guest of honour at a dinner where donations were sought?' and 'Have I a particular relationship to the donor which would not be the case in respect of another candidate?' If the answer to any of these is 'Yes', then the presumption should be in favour of registration.

They are also reminded that they are only required to register donations of which they are aware, or might reasonably be expected to be aware.

33. Category 4(b) covers ~~support from which the Member receives~~ any *other* financial or material benefit in support of ~~his or her~~ a Member's role as a Member of Parliament. (Any contribution for the *personal benefit* [existing italics] of a Member should be entered under Category 5 (Gifts, benefits and hospitality (UK)).) The types of support which should be registered under this Category include the services of a research assistant or secretary whose salary, in whole or in part, is met by an outside organisation or individual; the provision of free or subsidised accommodation for the Member's use, other than accommodation provided by a local authority to a Member for the sole purpose of holding constituency surgeries or accommodation provided solely by the constituency party; and financial contributions towards such services or accommodation.

34. *Where Members receive sponsorship from political clubs or other associations, they should register this fact together with the names of individual donors who have contributed more than £1000 to the club in a calendar year. Similarly, if a fund-raising event raises more than £1000, a Member benefiting should register the event, the total amount raised and any qualifying donations from individuals or bodies; where the funds raised are available for more than one elected representative each Member should register the benefit as if he or she were the sole beneficiary.*

Category 5

Gifts, benefits and hospitality (UK): Any gift to the Member or the Member's spouse or partner, or any material benefit, of a value greater than 1 per cent of the current parliamentary salary from any company, organisation or person within the UK which in any way relates to membership of the House.

35. The specified financial value above which tangible gifts (such as money, jewellery, glassware etc.), or other benefits (such as hospitality, tickets to sporting and cultural events, relief from indebtedness, loan concessions, provision of services etc.) must be registered is 1 per cent of a Member's annual parliamentary salary.⁵

36. The rule means that *Members must register* any gift, or other benefit, which in any way relates to membership of the House and which is given ~~gratis free~~, or at a cost below that generally available to members of the public, ~~should be registered~~ whenever the value of the gift or benefit is greater than the amount specified above. *Members must also register* any similar gift or benefit which is received by any company or organisation in which the Member, or the Member and the Member's spouse or partner jointly, have a controlling interest ~~should also be registered~~.

37. *Members must register* gifts and other benefits from the same source in the course of a calendar year which *cumulatively* [existing italics] are of a value greater than 1 per cent of the current parliamentary salary ~~should be registered~~, even if each single gift or benefit is of lesser value.

⁵ About £600 as at April 2006.

38. *Members must register* benefits, such as tickets to sporting or cultural events, received by another person together with or on behalf of a Member ~~themselves should be registered as if they had been received by the Member as if they had received them in person.~~

39. *Members must register* gifts, or other benefits, from another Member of Parliament ~~are registrable~~ in the same way as those from anyone else.

40. There are three important exceptions to this rule:

- a) gifts and benefits known to be available to all Members of Parliament *or, in some cases, to all Members within a particular geographical area*, need not be registered;
- b) a Member need not register attendance at a conference or a site visit within the United Kingdom where the organiser meets reasonable travel costs and subsistence only; and
- c) hospitality provided by Her Majesty's Government, any of the devolved institutions in Scotland, Wales or Northern Ireland, or non-departmental public bodies, including a Member's local authorities or health authorities, is exempt from registration.

41. Gifts and material benefits in this Category (and other Categories) are exempt from registration if they do not relate in any way to membership of the House. The extent to which this exemption applies in any particular case is necessarily a matter of judgement. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the House, or would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it should be registered.

42. *Where a personal benefit to the Member is not specifically received in the capacity of a Member of Parliament but is nonetheless related to his or her political activity, as, for instance, in the case of a fund set up to assist in a legal action arising out of such activity, any individual donations to this fund which are of registrable value should be registered under this category. See also paragraph 59.*

Category 6

Overseas visits: With certain specified exceptions, overseas visits made by the Member or the Member's spouse or partner relating to or in any way arising out of membership of the House where the cost of the visit *exceeds 1 per cent of the current parliamentary salary and was not wholly borne by the Member or by United Kingdom public funds.*

43. The Member should enter in the Register the date, destination and purpose of the visit and the name of the Government, organisation, company or individual which met the cost. Where only part of the cost was borne by an outside source (for example the cost of accommodation but not the cost of travel), those details should be stated briefly. When an overseas visit was arranged by a registered All-Party or parliamentary group or by a party backbench group, it is not sufficient to name the group as the sponsor of the visit: the Government, organisation, company or person ultimately meeting the cost should be specified.

44. The following categories of visit, which are mainly paid for from United Kingdom public funds or which involve reciprocity of payment with other Governments or

Parliaments, together with any hospitality associated with such a visit and available to all participants, are exempt from registration:

- i) Visits which are paid for by, or which are undertaken on behalf of, Her Majesty's Government or which are made on behalf of an international organisation to which the United Kingdom Government belongs;
- ii) Visits abroad with, or on behalf of, a Select Committee of the House, or undertaken under a Resolution of the House;
- iii) Visits undertaken on behalf of, or under the auspices of, the Commonwealth Parliamentary Association, the Inter-Parliamentary Union, (~~or the British-Irish Parliamentary Body~~), the British American Parliamentary Group, *the British-Irish Inter-Parliamentary Body*, the Council of Europe, the Western European Union, the Westminster Foundation for Democracy, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, the Armed Forces Parliamentary Scheme, the Police Service Parliamentary Scheme, or the National Council for Voluntary Organisations' MP Secondment Scheme;
- iv) Visits arranged and paid for wholly by a Member's own political party;
- v) Visits paid for wholly by an institution of the European Union or by a political group of the European Parliament;
- vi) Visits as part of an Industry and Parliament Trust fellowship.

45. Similar categories of visit may be added to this list from time to time by the Committee on Standards and Privileges. Visits which are entirely unconnected with membership of the House, ~~or the cost of which does not exceed 1 per cent of the current parliamentary salary,~~ are ~~also~~ exempt from registration.

Category 7

Overseas benefits and gifts: Any gift to the Member or the Member's spouse or partner, or any material advantage, of a value greater than 1 per cent of the current parliamentary salary from or on behalf of any company, organisation or person overseas which in any way relates to membership of the House.

46. The financial limits and guidelines which apply to Category 5 also apply here. Members should enter a cross-reference under this Category where an interest already entered in Categories 1, 2 or 3 entails the receipt of payments from abroad. There are legal restrictions on Members' accepting benefits from abroad in connection with their political activities, about which they may wish to take advice *from the Electoral Commission*.

Category 8

Land and property: Any land or property—

- (a) which has a substantial value (unless used for the personal residential purposes of the Member or the Member’s spouse or partner), or
- (b) from which a substantial income is derived.

The nature of the property should be indicated.

47. Property used for the personal residential purposes of the Member or the Member’s spouse or partner *and dependent children* (that is, *their main and other homes* ~~and second homes~~) does not need to be registered under Category 8(a). It *may* need to be registered under Category 8(b), but only if the Member *also* derives an income from it *and* derives a *substantial* income from his *or her* total property portfolio (see paragraph 49). A property, such as a farm, on which the Member has a residence should be registered if it has a substantial value aside from the residential use.

48. “Substantial value” means a value greater than the current parliamentary salary. If a Member’s total property portfolio (*excluding their main and other homes* ~~and second homes~~) has a substantial value, it should be registered.

49. “Substantial income” means an income greater than 10 per cent of the current parliamentary salary. If the income from a Member’s total property portfolio (*including their main and other* ~~homes and second homes~~) is substantial, all the properties from which any income is derived should be registered.

50. Entries should be reasonably specific as to the nature of the property and its general location, for example:—

“Woodland in Perthshire”

“Dairy farm in Wiltshire”

“3 residential/*commercial* rented properties in Manchester”.

Category 9

Shareholdings: Interests in shareholdings [*other than publicly-quoted investment trust companies and authorised Investment Companies with Variable Capital generally available to the public*⁶] held by the Member, either personally, or with or on behalf of the Member's spouse or partner or dependent children, in any public or private company or other body which are:

- (a) greater than 15 per cent of the issued share capital of the company or body; or
- (b) 15 per cent or less of the issued share capital, but greater in value than the current parliamentary salary.

The nature of the company's business in each case should be registered.

51. When determining whether or not shareholdings are registrable under the criteria set out above, Members should include not only holdings in which they themselves have a beneficial interest but also those in which the interest is held with, or on behalf of, their spouse or partner or dependent children. ~~Members should also include identifiable holdings of overseas trusts of which they are actual or potential beneficiaries.~~

52. For each registrable shareholding, the entry should state the name of the company or body, briefly indicate the nature of its business, and make clear which of the criteria for registration is applicable.

53. The value of a shareholding is determined by the market price of the share on the preceding 5th April; but if the market price cannot be ascertained (e.g. because the company is unquoted and there is no market in the shares), ~~the nominal value of the shareholding should be taken instead~~ *the Member should decide whether or not to register it on the basis of its estimated value.* Interests in shareholdings include share options.

54. *It is sometimes appropriate to register shareholdings falling outside Categories 9a and 9b.* In considering whether to ~~register any shareholdings falling outside (a) and (b)~~ do so, Members should have regard to the definition of the main purpose of the Register: "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". If a Member considers that any shareholding which he or she holds falls within this definition, the Member should register the shareholding ~~either in this Category or~~ under Category 10.

55.

- a) *Where a Member has holdings in a collective investment vehicle, he or she must make reasonable inquiries to ascertain whether his or her underlying holding in respect of any individual company is of a size which would make it registrable if held independently and register the holding if this is the case⁷.*

6 For options (ii) to (iv) as set out in paragraph 38 of the Consultation Document.

7 This paragraph would only be included if option (iv) set out in paragraph 38 of the Consultation Document is chosen.

56. *Either*

- a) *A Member who benefits from a trust should register it under this category if the total holdings of the trusts are worth more than the current parliamentary salary or*
- b) *A Member who benefits from a trust which brings in an income of more than 1 per cent of the current parliamentary salary should register it under this category or*
- c) *A Member who benefits from a trust should register under this Category or Category 8 as appropriate any assets of the trust of which he or she is aware which would be registrable if held otherwise than in a trust, but the existence of the trust itself should not be registered.*

Where a Member is a beneficiary of a ‘blind trust’ so that he or she is wholly unaware of and cannot control the holdings, no obligation to register arises.⁸

57. Pensions are not in themselves registrable, but identifiable holdings in a self-invested personal pension fund, if of registrable value, are registrable either under Category 8 or Category 9 as appropriate.⁹

Category 10

Miscellaneous: Any relevant interest, not falling within one of the above categories, which nevertheless falls within the definition of the main purpose of the Register which 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,” or which the Member considers might be thought by others to influence his or her actions in a similar manner, even though the Member receives no financial benefit.

58. The main purpose of this Category is to enable Members to enter in the Register any interests which they consider to be relevant to the Register’s purpose, but which do not obviously fall within any of the other categories. As the Select Committee on Members’ Interests pointed out in its First Report of Session 1991–92: “it is a cardinal principle that Members are responsible for making a full disclosure of their own interests in the Register; and if they have relevant interests which do not fall clearly into one or other of the specified Categories, they will nonetheless be expected to register them”.¹⁰

~~[47.] Members should register under this category potential or actual interests in overseas trusts, except where these have been registered under Category 9.~~

59. The general principle of the Register is that the requirement to register is limited to interests entailing remuneration or other material benefit.¹¹ Members are not, therefore, required by the rules to register unremunerated directorships (e.g. directorships of

⁸ *This paragraph would only be included if it is decided that trusts should generally be registrable—see paragraphs 43 to 51 of the Consultation Document.*

⁹ *This paragraph would only be included if it is decided that such interests should be registrable—see paragraph 52 of the Consultation Document.*

¹⁰ *Op.cit.*, paragraph 29.

¹¹ *Ibid.*, paragraph 31.

charitable trusts, professional bodies, learned societies or sporting or artistic organisations) and the Category should not be used to itemise these or other unremunerated interests. However, when a Member considers that an unremunerated interest which ~~the Member he~~ *or she* holds might be thought by others to influence his or her actions in a similar manner to a remunerated interest, such an interest may be registered here. Such interests may include, but are not limited to, shareholdings (as described in paragraph 54 above), unremunerated parliamentary consultancies, or non-practising membership of professions. *Interests such as a fund to defray legal expenses relating to an action arising from activities as a Member should also be recorded here if no financial benefit has yet ensued.*

Agreements for the provision of services

“Any Member proposing to enter into an agreement which involves the provision of services in his capacity as a Member of Parliament shall conclude such an agreement only if it conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members; and a full copy of any such agreement including the fees or benefits payable in bands of: up to £5,000, £5,001–£10,000, and thereafter in bands of £5,000, shall be deposited with the Parliamentary Commissioner for Standards at the same time as it is registered in the Register of Members’ Interests and made available for inspection and reproduction by the public.

Any Member who has an existing agreement involving the provision of services in his capacity as a Member of Parliament which conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members, but which is not in written form, shall take steps to put the agreement in written form; and no later than 31st March 1996 a full copy of any such agreement including the fees or benefits payable in bands of: up to £5,000, £5,001–£10,000, and thereafter in bands of £5,000 shall be deposited with the Parliamentary Commissioner for Standards and registered in the Register of Members’ Interests and made available for inspection and reproduction by the public.

Provided that the requirement to deposit a copy of an agreement with the Commissioner shall not apply —

- (a) if the fees or benefits payable do not exceed 1 per cent of the current parliamentary salary; nor
- (b) in the case of media work (but in that case the Member shall deposit a statement of the fees or benefits payable in the bands specified above).”

(Part of a Resolution of the House of 6th November 1995, amended on 14th May 2002)

60. *Under a Resolution of the House of 6th November 1995 the House agreed that Members should deposit certain agreements for the provision of services with the Parliamentary Commissioner for Standards. ~~The two Resolutions set out above have continuing effect. Any Member who has an existing agreement or proposes to enter into an agreement which involves the provision of services in his or her capacity as a Member of Parliament should:~~*

Members should:

- ensure that the agreement does not breach the ban on lobbying for reward or consideration (see paragraphs 82–94 below);
- put any such agreement in written form;
- deposit a full copy of the agreement with the ~~Parliamentary~~ *Parliamentary* Commissioner ~~for Standards~~. The agreement should indicate the nature of the services to be provided and

specify the fees or benefits the Member is to receive in bands of (1) up to £5,000; (2) £5,001 to £10,000 (and thereafter in bands of £5,000);

- make the appropriate entry in the Register of Members' Interests; and
- declare the interest when it is appropriate to do so (see paragraphs 65–80).

Deposited agreements may be inspected in the Committee Office of the House of Commons.

~~[58.] If the fees or benefits the Member is to receive do not exceed 1 per cent of the current parliamentary salary, the Member is not required to deposit a copy of an agreement with the Commissioner. Nor is the Member required to specify the fees or benefits, or to register the interest.~~

61. The Select Committee on Standards in Public Life¹² gave the following guidance in respect of the application of the rule:

“The present rule is that all remunerated outside employment must be included in the Register, irrespective of whether it has any bearing on a Member’s actions in Parliament. We have no doubt that this discipline should continue to be observed.

If our recommendation that paid advocacy¹³ in Parliament should be prohibited altogether is adopted by the House, it is essential that no future agreements should require Members to take part in activities which can be described as advocacy.

The new requirement for employment agreements¹⁴ to be put in writing will apply principally to any arrangement whereby a Member may offer advice about parliamentary matters. We think it right, however, that it should also include frequent, as opposed to merely occasional, commitments outside Parliament which arise directly from membership of the House. For example, a regular, paid newspaper column or television programme would have to be the subject of a written agreement, but ad hoc current affairs or news interviews or intermittent panel appearances would not.¹⁵

It may not always be immediately obvious whether a particular employment agreement arises directly from, or relates directly to, membership of the House. At one end of the spectrum are those Members whose outside employment pre-dates their original election, whilst at the other extreme are those who have taken up paid adviserships since entering the House. In between there will be many cases which are difficult to classify. Some Members, for example, may provide advice on Parliamentary matters incidentally as part of a much wider employment agreement covering matters wholly unrelated to the House. In these circumstances, it would be for an individual Member to decide how far it would be proper to isolate the

12 Select Committee on Standards in Public Life, Second Report, Session 1994–95, HC 816, paragraphs 39–42.

13 Referred to in the Guide as “lobbying for reward or consideration”.

14 Referred to in the Guide as “agreements for the provision of services”.

15 But see also paragraph 54 below.

Parliamentary services within a separate, depositable agreement; in reaching that decision he may wish to consult the Commissioner.”

62. On the basis of this guidance the Committee on Standards and Privileges has agreed that disclosing the remuneration for parliamentary services separately from remuneration for other services would be justified only in exceptional circumstances; e.g. where the parliamentary services are separately identifiable and form only a small proportion of the services as a whole. In any such case the entry in the Register should make it clear that the remuneration is for parliamentary services as part of a wider agreement.

63. The scope of the Resolutions is not limited to employment registered under Category 2 (Remunerated employment, office, profession, etc.) but includes other forms of employment, such as directorships (including non-executive directorships), when these involve the provision of services by the Member in his or her capacity as a Member of Parliament.

64. The following *special* provisions apply to media work (journalism, broadcasting, speaking engagements, media appearances, training, &c.):

- a) The deposit of an agreement for the provision of services is not required.
- b) ~~Instead~~ Unless the work is wholly unrelated to parliamentary affairs, such as a sports column in a newspaper, Members who register any form of media work under Category 2 (Remunerated employment, office, profession, etc.) should declare the remuneration, or value of the reward, they receive for each commitment, or group of commitments for the same organisation or audience in the same calendar year, in bands of (1) up to £5,000; (2) £5,001–£10,000 (and thereafter in bands of £5,000).
- ~~e) But such declarations are not required —~~
 - ~~i) for media work which is wholly unrelated to parliamentary affairs, such as a sports column in a newspaper, or~~
 - ~~ii) in any case where in the course of a calendar year total remuneration received from an employer or client, or through an agency, does not exceed 1 per cent of the current parliamentary salary.~~

2. Declaration of Members’ Interests

Rules of the House

“In any debate or proceeding of the House or its Committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.”

(Resolution of the House of 22nd May 1974)

“For the purposes of the Resolution of the House of 22nd May 1974 in relation to disclosure of interests in any proceeding of the House or its Committees,

- (i) Any interest declared in a copy of the Register of Members’ Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division of the House or in any of its Committees.

(ii) The term ‘proceeding’ shall be deemed not to include the asking of a supplementary question.”

(Resolution of the House of 12th June 1975, amended on 19th July 1995)

“This House takes note of the First Report from the Select Committee on Members’ Interests, Session 1990–91 (House of Commons Paper No. 108), relating to the interests of Chairmen and members of Select Committees, and approves the recommendations of the Committee relating to declaration of interest in Select Committees (paragraphs 8 to 16), withdrawal from Committee proceedings (paragraph 24) and procedures prior to the election of a Chairman (paragraph 25).”

(Resolution of the House of 13th July 1992: Members’ Interests (Interests of Chairmen and members of Select Committees))

65. In 1974 the House replaced a long standing convention with a rule that any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, should be declared in debate, or other proceeding. The same rule places a duty on Members to disclose to Ministers, or servants of the Crown, all relevant interests. The term ‘servants of the Crown’ should be interpreted as applying to the staff of executive agencies as well as to all staff employed in government departments.

Past and potential interests

66. The rule relating to declaration of interest is broader in scope than the rules relating to the registration of interests in *three* ~~two~~ important respects. As well as current interests, Members are required to declare both relevant past interests and relevant interests which they may be expecting to have. In practice only interests held in the recent past, i.e. those contained in the current printed edition of the Register, need normally be considered for declaration. Expected future interests, on the other hand, may be more significant. Where, for example, a Member is debating legislation or making representations to a Minister on a matter from which he has a reasonable expectation of personal financial advantage, candour is essential. In deciding when a possible future benefit is sufficiently tangible to necessitate declaration, the key word in the rule which the Member must bear in mind is “expecting”. Where a Member’s plans or degree of involvement in a project have passed beyond vague hopes and aspirations and reached the stage where there is a reasonable expectation that a financial benefit will accrue, then a declaration explaining the situation should be made. *Members are also required to declare relevant indirect interests, for instance those of a spouse or partner.*

Relevance

67. It is the responsibility of the Member, having regard to the rules of the House, to judge whether a pecuniary interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a pecuniary interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but should make specific reference to the nature of the Member’s interest.

68. *Members are, however, not required to declare interests common to all Members and solely arising in that specific capacity. For example in a debate on employment law, Members*

are not required to declare any interest as employer of staff in relation to those employed wholly in connection with their parliamentary duties.

69. The House has endorsed the following advice on the occasions when such a declaration of interest should be made: “no difficulty should arise in any proceeding of the House or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the House, include debates in Standing Committees, the presentation of a Public Petition, and meetings of Select Committees at which evidence is heard. On all such occasions the Member will declare his interest at the beginning of his remarks ... it will be a matter of judgement, if his interest is already recorded in the Register, whether he simply draws attention to this or makes a rather fuller disclosure”.¹⁶ Any declaration “should be sufficiently informative to enable a listener to understand the nature of the Member’s pecuniary interest ...”¹⁷, *and Members are advised to be specific if there is any doubt as to which interest is involved.*

70. In a debate in the House the Member should declare an interest briefly, usually at the beginning of his or her speech. If the House is dealing with the Committee or Consideration stages of a Bill it will normally be sufficient for the Member to declare a relevant interest when speaking for the first time. In Standing Committee Members should declare relevant interests at the first meeting of the Committee or on the first occasion on which they address the Committee. It will not be necessary for a declaration to be repeated at subsequent meetings except when the Member speaks on an Amendment to which the interest is particularly relevant. When giving notice of an Amendment or a Motion (including a Motion for leave to introduce a “Ten Minute Rule” Bill), giving notice of the presentation of a Bill or adding a name to an amendment or motion, Members should declare any relevant interest in the appropriate manner (see paragraphs 71–74 below).

Declaration of interest in respect of written notices

~~71. On 19th July 1995 the House agreed, with effect from the beginning of Session 1995–96, to extend the rules relating to declaration of interest by abolishing the exemption granted to the giving of written notices in the Resolution of 22nd May 1974. Declaration of relevant interest is required. Since 19th July 1995, Members have been~~ *are* required to declare relevant interests on the Order Paper (or Notice Paper) when tabling any written notice *initiating a parliamentary proceeding*, i.e.:

- a) Questions (for oral or written answer, including Private Notice Questions);
- b) Early Day Motions, Amendments to them, or any names added in support of such Motions or Amendments;
- c) a notice of a Motion for leave to introduce a “Ten Minute Rule” Bill;
- d) a notice for the presentation of a Bill (including a “Ballot” Bill);

16 Select Committee on Members’ Interests (Declaration), First Report, Session 1974–75, HC 102, paragraph 43; approved by the House, 12th June 1975.

17 Select Committee on Members’ Interests, First Report, Session 1991–92, *op.cit.*, paragraph 80.

- e) any other Motions, Amendments, or added names in support of them;
- f) Amendments to Bills (whether to be considered in the House or in a Committee) and any names added in support of them.

72. Whenever such an interest is declared, the symbol “[R]” is printed after the Member’s name on the Notice Paper or Order Paper. The Office accepting the written notice (including any written notice of a Member adding his or her name to a Motion or an Amendment) assumes that no interest is declarable unless the notice clearly indicates a declaration: this should be done by inserting “[R]” after the Member’s name on the Motion or Amendment, as the case may be, or filling in the appropriate box which appears on the form for parliamentary Questions.

73. “Relevant interests” which should be declared include any interest which the Member is required to register in the Register of Members’ Interests, or which the Member should declare in debate. It will therefore usually be the case that the interest to which the Member is drawing the attention of the House will already be entered in the Register. Provided it is readily apparent which of the Member’s registered interests are applicable, the Member need take no further action. If this is not the case, or if the interest is a new interest which is not yet available for inspection in the Register *or is* declarable but not registrable, then the Member when giving notice should attach to that notice a brief written description of the interest which is being declared. This will then be available for inspection by Members in the Office where the notice was given, viz.: the Table Office, the Public Bill Office, or the Private Bill Office. In the case of Private Notice Questions which are allowed, a Member with a relevant interest should declare that interest when the Question is formally asked in the House.

74. All Members need to exercise particular care when invited to add their names to any EDMs or other Motions or Amendments and to ensure that they have considered whether they have a relevant declarable interest. Given the informal way in which support for Motions and Amendments is often sought, the need for declaration may not be foremost in Members’ minds, but great care needs to be exercised by Members in these circumstances.

Declaration of interest in applications for adjournment or emergency debates

75. Requests for emergency debates under Standing Order No. 24 and applications for daily adjournment debates and adjournment debates in Westminster Hall are made to the Speaker. Such applications should be accompanied by a declaration of any relevant interest. When a Member is notified that he or she has been successful in obtaining an adjournment debate it is the Member’s responsibility to notify the Table Office and to ensure that an indication of the relevant interest appears at the earliest opportunity on the Notice Paper or Order Paper. The procedure will be similar to that for written notices described in paragraph 72. If the Speaker allows a Member to present an application to the House for an emergency debate under Standing Order No. 24 a Member with a relevant interest should begin his or her remarks to the House with a declaration of that interest.

Declaration of interest in select committees

76. Members of Select Committees on any matter or Bill are bound by the Resolution of the House of 13th July 1992 which approved certain paragraphs of a Report by the Select Committee on Members' Interests relating to the financial interests of Chairmen and members of Select Committees.¹⁸ The main provisions are:

- before the Committee proceeds to the election of a Chairman all Members nominated to serve upon a Select Committee are required to send to the Clerk of the Committee details of any pecuniary interests for circulation to the Committee under the authority of the senior Member before its first meeting. The procedure is not necessary in the case of Select Committees of a wholly procedural nature. [Paragraph 25]
- “when a member of a Committee, particularly the Chairman, has a pecuniary interest which is directly affected by a particular inquiry or when he or she considers that a personal interest may reflect upon the work of the Committee or its subsequent Report, the Member should stand aside from the Committee proceedings relating to it.” [Paragraph 24]
- “before proceeding to business after the election of the Chairman, the Chairman of the Committee should invite all members of the Committee to declare any interests they may have which relate to the terms of reference of that Committee, or which are likely to be relevant to a substantial part of the work which the Committee may be expected to undertake”. [Paragraph 13]
- “A Member should make a declaration of interest at an early stage in any inquiry to which that interest particularly relates. If the interest is especially relevant to one witness or group of witnesses appearing before the Committee, the interest should be declared again at the appropriate session of evidence”. [Paragraph 13]
- A Member is required to “declare an interest when asking any questions which relate directly, or which might reasonably be thought by others to relate directly, to the pecuniary interest he or she holds ... Such a declaration must be made irrespective of any declaration having been made at an earlier meeting of the Committee”. One such declaration is sufficient for any questions asked of the same witnesses during one evidence Session. [Paragraph 13]
- “Although the main purpose of declaration of interest is to inform colleagues, it is right that witnesses and the public, if the Committee is meeting in public, should also be informed. When a Committee meets in public, declaration of interest should be in public Session. When a Committee meets in private and regularly takes oral evidence, declaration should be made when witnesses are present.” [Paragraph 13]
- “In making any declaration a Member should clearly identify the nature of the pecuniary interest. The form in which a declaration of interest is made, and its extent,

¹⁸ Select Committee on Members' Interests, First Report, Session 1990–91, HC 108. The paragraphs which the House specifically approved were: 8–16, 24 and 25. The references in square brackets relate to the paragraphs in that Report.

must be primarily for the individual Member.” A casual reference is not sufficient. “A Member should make a declaration in clear terms and should ensure that such a declaration is entered in the Minutes of Proceedings of the Committee.” [Paragraph 14]

- It is “perfectly acceptable for a Member, when declaring an interest which is registered in the Register of Members’ Interests ... to refer to his or her entry in the Register”. [Paragraph 16]. (*But see also the more extensive guidance in paragraph 69 above.*)
- “we stress the importance of declaration when relevant and of declaring a pecuniary interest at the moment when it is most appropriate to do so. We do not wish to create a situation where the proceedings of Committees are frequently interrupted by declarations of tangential relevance to what is being considered ... the interests that a Member is required to register may not be at all relevant to his or her work on the Select Committee and consequently may never need to be declared during its proceedings.” [Paragraph 16]

77. Where the subject matter of an inquiry of a Select Committee is of direct concern to an outside body in which a Member has a pecuniary interest, the Member must consider whether on grounds of conflict of interest it is proper to take part in the inquiry. The Member must also consider whether the relationship of his or her interest to the subject of the inquiry is so close that it is not possible to participate effectively in the inquiry without crossing the borderline into advocacy.

Rule on declaration of interests relating to Private Bills

78. Under Standing Order 120 relating to Private Business a Member nominated by the Committee of Selection to serve on a Committee on a Private Bill is required to sign a declaration “that my constituents have no local interest, and I have no personal interest, in the said Bill”. To be disqualified the Member’s interest must be a direct interest where there is a potential benefit or disadvantage to the Member arising from the matter in issue; or the constituency interest must be a local interest affecting the constituency as a whole or a significant number of constituents. Where a Member is in doubt, the Clerk of Bills should be consulted.

Other occasions when declaration of interest should be considered

79. The requirement to declare a relevant interest **at the appropriate time** covers almost every aspect of a Member’s parliamentary duties extending to correspondence and meetings with Ministers and public officials. Frankness with colleagues is also important. In 1975 the House agreed to the report of the Select Committee on Members’ Interests (Declaration) which contained these words: “it should be a matter of honour that a pecuniary interest is declared not only, as at present, in debate in the House and its Committees but also whenever a Member is attempting to influence his fellow Members, whether in unofficial committees and gatherings or at any kind of sponsored occasion, with or without entertainment, or simply in correspondence or conversation. Above all it should be disclosed when a Member is dealing with Ministers of the Crown and civil

servants, and this obligation becomes of paramount importance when a foreign government is involved either directly or indirectly”.¹⁹

80. In its application of the 1974 Resolution the House has always recognised that there are certain proceedings where declaration of interest is impracticable; e.g. during oral Questions or when asking a question in response to ministerial statement on a matter of public policy or supplementary to a Private Notice Question. (The Member asking the Question should, however, declare an interest; see paragraphs 71 to 73.) However, Members are advised to declare any relevant interest when such a declaration does not unduly impede the business of the House, for example in relation to a request for a debate made in response to a Business Question or statement.

Divisions

81. For the purpose of taking part in any division in the House or in Committee, it is sufficient for the relevant interest to be disclosed in the Register of Members’ Interests. A Member should seek to ensure prior to a vote taking place that any relevant interest is registered, or, where it is not, should register the interest immediately after the vote.

19 Select Committee on Members’ Interests (Declaration), First Report, Session 1974–75, HC 102, paragraph 40 (quoting the Report of the Select Committee on Members’ Interests (Declaration), Session 1969–70, HC 57).

3. Lobbying for Reward or Consideration

The 1947, 1995, and 2002 Resolutions

82. *Resolution relating to lobbying for reward or consideration reads as follows:*

“It is inconsistent with the dignity of the House, with the duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter into any contractual agreement with an outside body, controlling or limiting the Member’s complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof: and that in particular no Members of the House shall, in consideration of any remuneration, fee, payment, or reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received is receiving or expects to receive —

- (i) Advocate or initiate any cause or matter on behalf of any outside body or individual, or
- (ii) urge any other Member of either House of Parliament, including Ministers, to do so,

by means of any speech, Question, Motion, introduction of a Bill or Amendment to a Motion or a Bill or any approach, whether oral or in writing, to Ministers or servants of the Crown.”

(Resolution of the House of 15th July 1947, amended on 6th November 1995 and on 14th May 2002)

83. This Resolution prohibits paid advocacy. It is wholly incompatible with the rule that any Member should take payment for speaking in the House. Nor may a Member, for payment, vote, ask a Parliamentary Question, table a Motion, introduce a Bill or table or move an Amendment to a Motion or Bill or urge colleagues or Ministers to do so.²⁰

84. The Resolution does not prevent a Member from holding a remunerated outside interest as a director, consultant, or adviser, or in any other capacity, whether or not such interests are related to membership of the House. Nor does it prevent a Member from being sponsored by a trade union or any other organisation, or holding any other registrable interest, or from receiving hospitality in the course of his or her parliamentary duties whether in the United Kingdom or abroad.²¹ *However if a financial interest is required to be registered in the Register of Members’ Interests, or declared in debate, it falls within the scope of the ban on lobbying for reward or consideration.*

85. The Resolution *in its current form* extends and reinforces an earlier Resolution of the House in 1947 that a Member may not enter into any contractual arrangement which fetters the Member’s complete independence in Parliament by any undertaking to press some particular point of view on behalf of an outside interest.²² Nor, by virtue of the same Resolution, may an outside body (or person) use any contractual arrangement with a Member of Parliament as an instrument by which it controls, or seeks to control, his or her conduct in Parliament, or to punish that Member for any parliamentary action.²³ ~~The above Guidelines supersede the Guidelines in force until 14th May 2002 which reflected the~~

20 The principal Resolutions of the House relating to lobbying are set out in the Appendix, at pages 39–40.

21 Such interests must, of course, be registered or declared when appropriate (see Sections 1 and 2 above).

22 Committee of Privileges, Report, Session 1946–47, HC 118, paragraphs 11 to 15.

23 Committee of Privileges, Second Report, Session 1974–75, HC 634, paragraph 3.

~~distinction drawn by the Select Committee on Standards in Public Life between the initiation of, and participation in, parliamentary proceedings.~~

86. *The rule regarding lobbying for reward or consideration applies equally in the case of benefits received by any member of the Member's family.²⁴ For this purpose, 'family' includes (but is not restricted to) a Member's spouse or partner, children, and any dependents.*

87. In addition to the requirements of the ban on lobbying for reward or consideration, Members should also bear in mind the long established convention that interests which are wholly personal and particular to the Member, and which may arise from a profession or occupation outside the House, ought not to be pursued by the Member in proceedings in Parliament.

Guidelines on the application of the ban on lobbying for reward or consideration

88. *The Resolution was modified in 2002 to reflect recommendations made by the Committee on Standards in Public Life in 2000 in the light of evidence it had received that the arrangements put in place in 1995, particularly those relating to initiation of proceedings, were operating unduly harshly and were unnecessarily inhibiting the ability of Members to become well informed and to use their expertise and experience effectively. The aim of the recommended changes, while retaining the prohibition on 'paid advocacy' and seeking to confer benefits exclusively on a particular individual or body, was a relaxation of the restrictions on initiation to enable a Member with a personal interest to initiate proceedings on the same basis as they were already allowed to participate.²⁵ ~~If a financial interest is required to be registered in the Register of Members' Interests, or declared in debate, it falls within the scope of the ban on lobbying for reward or consideration.~~*

89. The Committee on Standards and Privileges has provided the following Guidelines to assist Members in applying the rule:

1. **Parliamentary proceedings:** When a Member is taking part in any parliamentary proceeding or making any approach to a Minister or servant of the Crown, advocacy is prohibited which seeks to confer benefit exclusively upon a body (or individual) outside Parliament, from which the Member has received, is receiving, or expects to receive a pecuniary benefit, or upon any registrable client of such a body (or individual). Otherwise a Member may speak freely on matters which relate to the affairs and interests of a body (or individual) from which he or she receives a pecuniary benefit, provided the benefit is properly registered and declared.
2. **Constituency interests:** Irrespective of any relevant interest which the Member is required to register or declare, he or she may pursue any constituency interest in any proceeding of the House or any approach to a Minister or servant of the Crown, except that:

24 For this purpose, 'family' includes (but is not restricted to) a Member's spouse or partner, children and any dependents. (but see also paragraph 91 below). In case of doubt, the Member may wish to consult the Registrar.

25 Sixth Report of the Committee on Standards in Public Life, Cm. 4557-I, paragraph 3.96.

- where the Member has a financial relationship with a company in the Member’s constituency the guidelines above relating to parliamentary proceedings shall apply;
- where the Member is an adviser to a trade association, or to a professional (or other representative) body, the Member should avoid using a constituency interest as the means by which to raise any matter which the Member would otherwise be unable to pursue.²⁶

[77.] The current Guidelines give effect to a recommendation from the Committee on Standards in Public Life in the following terms:

~~“In recommending in the First Report a ban on agreements between MPs and multi-client consultancies, we were concerned to avoid a situation in which MPs could be presented as participating in ‘a hiring fair’. We retain that concern. On the other hand, we are anxious that the rules should not unnecessarily inhibit the ability of MPs to become well informed and to use their expertise and experience effectively. Bearing in mind the evidence that we have heard about the present guidelines on ‘initiation’ and the ban on paid advocacy, we believe that they are operating unnecessarily harshly and that they should be amended. We recommend that the ban on paid advocacy should remain in place, but that the restriction on initiation should be removed and the guidelines relating to participation extended to include both participation and initiation. The effect of this would be that an MP who had a personal interest would be permitted to initiate proceedings in the same way that he or she is able to participate in proceedings under the current guidelines, but that MP (a) would not be able to engage in ‘paid advocacy’ or seek to confer benefits exclusively on a particular individual or body and (b) would be required to register and declare the benefit in accordance with the guidelines. We recommend a further safeguard (c) that, reinforcing present practice regarding the declaration of interests when tabling a written notice, in addition to registration and oral declaration, the MP would also be required to identify his or her interest on the Order Paper (or Notice Paper) by way of an agreed symbol.”²⁷~~

90. The Committee on Standards and Privileges has made it clear that it would regard it as a very serious breach of the rules if a Member failed to register or declare an interest which was relevant to a proceeding he had initiated. *Similar considerations would apply in the case of approaches to Ministers and others.*²⁸

91. [Note: “Initiating a parliamentary proceeding” includes:

- *presenting a Bill;*
- *presenting a Petition;*

26 The above Guidelines supersede the Guidelines in force until 14th May 2002 which reflected the distinction drawn by the Select Committee on Standards in Public Life between the initiation of, and participation in, parliamentary proceedings.

27 Sixth Report of the Committee on Standards in Public Life, *Reinforcing Standards*, Cm. 4557–I, January 2000, paragraph 3.96.

28 Fourth Report, Session 2001–02, *Restrictions on the Initiation of Parliamentary Proceedings: A Consultation Paper*, HC 478, paragraph 15.

- *tabling and asking a Parliamentary Question;*
- *asking a supplementary question to one’s own Question;*
- *initiating, or seeking to initiate an adjournment (or other) debate;*
- *tabling or moving any Motion (e.g. an “Early Day Motion” a Motion for leave to introduce a Bill under the “Ten Minutes Rule” or a Motion “blocking” a Private Bill;*
- *tabling or moving an Amendment to a Bill;*
- *proposing a draft Report, or moving an Amendment to a draft Report, in a Select Committee;*
- *giving any written notice, or adding a name to such notice, or making an application for and introducing a daily adjournment debate, or an emergency debate.*

A similar consideration applies in the case of approaches to Ministers or civil servants.

Parameters to the operation of the ban on lobbying for reward or consideration

92. The Committee on Standards and Privileges has also agreed to the following parameters to the operation of the rule:—

- 1) *Registrable interests:* The ban on lobbying for reward or consideration is to apply with equal effect to any registrable or declarable pecuniary benefit irrespective of the source of that benefit (i.e. no distinction is drawn between financial benefits received from a company, a representative organisation, a charity, a foreign government or any other source). Similarly, no distinction should be drawn in the application of the advocacy rule to different categories of registrable or declarable benefit²⁹ (except for the provision below relating to ballot bills, to overseas visits, and to membership of other elected bodies). Non-pecuniary interests registered by Members do not fall within the scope of the Resolution agreed by the House on 6th November 1995 and the rule does not apply to them.
- 2) *Past, present, and future benefits:* Unlike the Register, which lists current benefits, or benefits received in the immediate past, the Resolution on lobbying of 6th November 1995 also refers, as does the rule on declaration, to past and expected future benefits *and to indirect benefits*. It is difficult to contemplate circumstances where any benefit received some time in the past, particularly an interest which ~~is not in the current printed Register~~, *has not been current in the previous twelve months* could be sufficiently relevant to be taken into account under the rule (see (4) below). Expected future interests, on the other hand, may be more significant. For example, Members expecting to derive direct financial benefit from particular legislation should, as well as declaring the interest in debate as appropriate, not seek to move Amendments to

²⁹ Select Committee on Standards in Public Life, Second Report, Session 1994–95, HC 816, paragraphs 33 and 34.

advance the expected future interest. The same consideration applies to other proceedings.

- 3) *Continuing benefits*: Continuing benefits, i.e. directorships, other employment, and sponsorship, can be divested to release a Member with immediate effect from the restrictions imposed by the rule, providing that the benefit is disposed of and there is no expectation of renewal.
- 4) *“One-off” benefits*: The rule applies to “one-off” registrable benefits, both visits and gifts, from the day upon which the interest was acquired until one year after it is registered.
- 5) *Family benefits*: The rule includes relevant payments to a Member’s family, but any payment to a member of the family of any Member which arises out of the family member’s own occupation is not regarded as a benefit for the purposes of the Resolution³⁰, *although it may be declarable*.
- 6) *Ballot Bills*: Private Members successful in the Ballot for Bills are not prevented from introducing and proceeding with a Bill by reason of the fact that they receive free or subsidised assistance from an organisation connected with the purposes of the Bill provided the Member had no pre-existing financial relationship with the organisation which is registered, or is required to be registered.
- 7) *Overseas Visits*: Although, except as set out in paragraph 44, overseas visits must be registered and declared, such visits shall not be taken into account when applying the rule.
- 8) *Membership of other elected bodies*: Membership of the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, the European Parliament and local authorities in the United Kingdom shall not be taken into account when applying the rule.
- 9) *Ministers*: The restrictions imposed by the rule do not apply to Ministers when acting in the House as Ministers.

93. The financial interests of Members are extremely varied, as the Register demonstrates. Each Member will need to apply the rule and the Guidelines to his or her particular circumstances. When in doubt, Members will be able to seek the advice of the Registrar of Members’ Financial Interests, the Commissioner, or the Committee on Standards and Privileges. However, some illustrative examples of the application of the Guidelines may be of value:—

- a) A Member who is director of a company may not seek particular preference for that company (e.g. tax relief, subsidies, restriction of competition) in any proceeding of the House or any approach to Ministers or officials.
- b) In the case of trade associations, staff associations, professional bodies, charities (or any similar representative organisation):

30 *Ibid*, paragraph 37.

- i) Membership alone of any representative organisation does not entail any restrictions under the rule.
- ii) A Member who is, for example, a remunerated adviser:
 - may not advocate measures for the exclusive benefit of that organisation; nor speak or act in support of a campaign exclusively for the benefit of the representative organisation or its membership (e.g. a campaign for special tax relief, or for enhanced pay and numbers);
 - may speak or act in support of a campaign which is of particular interest to the representative organisation (e.g. in the case of an animal welfare organisation, a campaign to prohibit the importation of animal fur, or prohibit blood sports; in the case of a charity for cancer research, a campaign for the prohibition of smoking).
- c) When a Member has a problem involving a company within his or her constituency the Member may take any parliamentary action to resolve that problem, even though he or she may hold a remunerated position with a body representing the relevant sector of the industry regionally or nationally, or with another company outside the constituency in the same industrial sector. Similarly a Member who has a remunerated position with a representative association is not restricted in any way in taking up the case of a constituent who is a member of that association, or is employed by a member of that association. The only circumstances when the Member's actions are restricted are when the Member has a registrable interest with the company concerned ~~when~~ *in which case* the guidelines provide that the Member forfeits the special position he or she has as a constituency Member.
- d) Members are reminded that when accepting foreign visits they should be mindful of the reputation of the House. However, the knowledge obtained by Members on such visits can often be of value to the House as a whole. While it is desirable that Members should be able to use that knowledge in debate in the House there is a point at which promoting the interests, of e.g. a foreign Government from which hospitality has been received, crosses the line between informed comment and lobbying. Members may not, for example, advocate in debate increased United Kingdom financial assistance to a Government from which they have recently received hospitality. Nor may a Member advocate any other measure for the exclusive benefit of the host Government. Subject to this constraint Members could, having declared their interest, raise matters relating to their experiences in the country either in a speech or by initiating any other proceeding. Similarly they could raise matters relating to the problems of the country generally, or make use of any local insight they have obtained into regional problems (e.g. the situation in the Middle East or in South East Asia, economic or social problems or an external threat) or information they have obtained on local developments or initiatives.
- e) A Member whose visit was funded by a non-governmental organisation (NGO) or other agency would not be inhibited in speaking about its work or the problems it was dealing with. Only a matter which was for the exclusive benefit of the NGO or agency, e.g. a request for a grant-in-aid to the particular organisation, could not be pursued.

- f) ~~Under the rule, a Member who is receiving free office accommodation provided by a local authority should not advocate measures for the exclusive benefit of the local authority itself (as distinct from the interests of those whom the local authority represents). In practice, since Members also have a paramount duty to represent their constituents there will be few occasions when the application of the rule will place a limit on a Member's parliamentary actions. In any event, Accommodation provided solely for the purpose of holding constituency surgeries is exempt from registration and therefore from the application of the rule.~~

Responsibility of the Member

94. In common with the rules of the House relating to registration and declaration of interest the main responsibility for observation of the ban on lobbying for reward or consideration lies with the individual Member. The Select Committee on Standards in Public Life stated in its Second Report that “it is important to make clear that it will not be the function of the Chair to enforce the ban ... during speeches, either by interrupting a Member thought to be contravening it, or by declining to call him. Complaints will be a matter for the Commissioner to investigate in the first instance”.³¹ The Speaker has declined to receive points of order relating to registration or lobbying.³²

Delegations

“... a Member with a paid interest should not initiate or participate in, including attendance, a delegation where the problem affects only the body from which he has a paid interest.”

(Part of a Resolution of the House of 6th November 1995)

95. A further Resolution agreed by the House on 6th November 1995 restricts the extent to which any Member with a paid interest may participate in, or accompany, a delegation to Ministers or public officials relating to that interest. A Member should not initiate, or participate in, or attend any such delegation where the problem to be addressed affects only the body with which the Member has a relevant interest, except when that problem relates primarily to a constituency matter.

31 Select Committee on Standards in Public Life, Second Report, Session 1994–95, HC 816, paragraph 26.

32 E.g. HC Deb, vol 276, col 605 and vol 277, cols 767–68.

4. Procedure for Complaints

96. Complaints, whether from Members or from members of the public, alleging that the conduct of a Member is incompatible with the Code of Conduct or with this Guide, should be addressed in writing to the Parliamentary Commissioner for Standards. *Further guidance on the complaints procedure is available in Procedural Notes issued by the Commissioner. These are also posted on the Parliamentary website.*

97. Both the Commissioner and the Committee on Standards and Privileges will be guided by the view of the former Select Committee on Members' Interests that "it is not sufficient to make an unsubstantiated allegation and expect the Committee to assemble supporting evidence" and "that it would not normally regard a complaint founded on no more than a newspaper story or television report as a substantiated allegation".³³ *The Committee on Standards and Privileges has also made it clear that it would expect the Commissioner to consult it before accepting for investigation a complaint against a former member or one which goes back more than seven years.*

98. *A number of areas are outside the Commissioner's remit. As a result, he is unable to consider complaints about policy matters or a Member's views or opinions, a Member's decision about how to handle a constituent's case, the funding of political parties, alleged breaches of the separate Code governing the conduct of Government Ministers in their capacity as Ministers (the Ministerial Code), and what Members do in their purely private and personal lives. The Commissioner will not entertain anonymous complaints.*

99. It is a basic courtesy that a Member making a complaint to the Commissioner should at the same time send a copy of the letter of complaint to the Member concerned.

100. Communications between a member of the public and the Commissioner are not covered by Parliamentary privilege (and may not be privileged at law) unless and until the Commissioner decides the case has some substance to merit further inquiry. If he decides to the contrary, he may at his discretion reject the complaint without further reference to the Committee. The receipt of a complaint by the Commissioner ~~is not to be interpreted as an indication~~ *does not imply* that a prima facie case has been established.

101. If the Commissioner is satisfied that sufficient evidence has been tendered in support of the complaint to justify his taking the matter further, he will ask the Member to respond to the complaint and will then conduct a preliminary investigation. If he decides, after some inquiry, that there is no prima facie case, or that the matter can be dealt with under the rectification procedure, he will report that conclusion briefly to the Committee on Standards and Privileges. If he finds that there is a prima facie case or that the complaint raises issues of wider importance, he will normally report the facts and his conclusions to the Committee.

102. 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

33 Select Committee on Members' Interests, First Report, Session 1992-93, HC 383, paragraph 4. The Commissioner will not entertain anonymous complaints.

has discretion to allow the Member 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 by means of a point of order. *In allowance cases the rectification procedure requires the Member to make appropriate repayment. Complaints of non-registration by Members' staff, All-Party Groups and journalists may be treated in a similar way* ~~Any rectification is reported briefly to the Committee.~~

103. The Committee on Standards and Privileges will consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches of the Code of Conduct or Guide to which the House has agreed and which have been drawn to the Committee's attention by the Commissioner.

104. *It is a requirement of the Code of Conduct that Members cooperate, at all stages, with any investigation into their conduct. It is also a requirement that Members do not lobby members of the Committee on Standards and Privileges in a manner calculated or intended to influence their consideration of a complaint.*

105. The Committee has power under its Standing Order to send for persons, papers and records; to order the attendance of any Member before it; and to require that specific documents in the possession of a Member relating to its inquiries or to the inquiries of the Commissioner be laid before it.

106. While it is the practice of the Committee to deliberate in private, the Committee determines for itself whether sessions at which evidence is to be taken shall be held publicly or in private, and is empowered to refuse leave for the broadcasting of any public sessions.

107. On specific complaints for which the Commissioner has decided there is a prima facie case, the Committee will make recommendations to the House on whether further action is required. It may also report to the House on other complaints if it thinks fit.

108. The Committee has said that where it feels that a complaint from a Member was frivolous or had been made only for partisan reasons, it would expect to state that in any report it made about the complaint.

[The existing Appendix to the Guide to the Rules, setting out the principal Resolutions of the House relating to the conduct of Members, will also be included in the final version, and a revised index will also be included.]

Formal minutes

Monday 24 July 2006

Members present:

Sir George Young, in the Chair

Mr Kevin Barron

Mr Andrew Dismore

Mr Brian Jenkins

Mr Elfyn Llwyd

Mr Chris Mullin

The Hon Nicholas Soames

Dr Alan Whitehead

* * *

The Committee deliberated.

Draft Report [Review of the Guide to the Rules Relating to the Conduct of Members: Consultation Document], proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 3 read and agreed to.

Resolved, That the Report be the Sixteenth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

A Paper was ordered to be appended to the Report.

Ordered, That the Appendix to the Report be reported to the House.—(*The Chairman.*)

* * *

[Adjourned till Tuesday 17 October at 10.30 am.]

Reports from the Committee on Standards and Privileges in the current Parliament

Session 2005–06

First Report	Conduct of Mr Jonathan Sayeed	HC 419
Second Report	Conduct of Mr John Horam	HC 420
Third Report	Conduct of Mr Tony Baldry	HC 421
Fourth Report	Pay for Standing Committee Chairmen	HC 568
Fifth Report	Electoral Administration Bill: Simplification of Reporting Requirements	HC 807
Sixth Report	Mr Stephen Byers (Matter referred on 19 October 2005)	HC 854
Seventh Report	Conduct of Mr George Galloway	HC 1067
Eighth Report	Conduct of Mr Mark Lancaster	HC 1144
Ninth Report	Lobbying and All Party Groups	HC 1145
Tenth	Conduct of Mr Michael Foster (Worcester)	HC 1223
Eleventh	Conduct of Ms Emily Thornberry	HC 1367
Twelfth	Conduct of Nadine Dorries	HC 1368
Thirteenth	Conduct of Mr John Prescott	HC 1553
Fourteenth	Conduct of Dr Desmond Turner	HC 1578
Fifteenth	Conduct of Mr Eric Illsley	HC 1579
Sixteenth	Review of the Guide to the Rules Relating to the Conduct of Members: Consultation Document	HC 1580