



Parliamentary Commissioner for
Standards

Annual Report 2009–10

*Ordered by The House of Commons
to be printed 27 July 2010*

HC 418
Published on 29 July 2010
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

Contents

Annual Report 2009-10	<i>Page</i>
Foreword	3
1 Review of the year	5
2 Looking outward: information and advice	13
Responding to enquiries from the general public	13
Freedom of Information Requests	14
Responding to enquiries from the media	14
Relations with other standards bodies	14
International work	14
Advice to Members and others	15
3 Complaints	16
Complaints received and considered in 2009-10	16
Complaints accepted for inquiry in 2009-10	17
Complaints resolved in 2009-10	18
Analysis of complaints resolved during the year	20
Complaints not inquired into	35
Frivolous or vexatious complaints	36
Complaints about other Registers	36
Trends in complaints from 2004 to 2010	36
4 Registers of interests for Members, Members' Secretaries and Research Assistants, Journalists, and All-Party Groups	38
Introduction	38
Register of Members' Financial Interests	38
Complaints relating to the Register of Members' Financial Interests	39
Register of Interests of Members' Secretaries and Research Assistants	39
Register of Journalists	40
Register of All-Party Groups	40
Prospective changes to the rules on All-Party Groups	41
Complaints relating to Registers of Members' Secretaries and Research Assistants, Journalists and All-Party Groups	41
5 Resourcing the work	43
6 Conclusion and forward look	44
Appendix 1: Standing Orders Nos 149 & 150, as amended by the House on 9 February 2009	46
Appendix 2: Note on Registers of interests for Members' Secretaries and Research Assistants, Journalists, and All-Party Groups	49
Appendix 3: Memorandum of Understanding between the Electoral Commission and the Parliamentary Commissioner for Standards: 15 April 2009	51

Foreword

It is common ground that 2009–10, the final year of the last Parliament, was the worst for the standing and reputation of the House of Commons in recent memory. The expenses crisis brought Parliament low. That crisis has properly dominated my work, both on the consideration of complaints and on the consideration of the structure and role of my office.

The statistics show that I received more complaints than my office ever has before. And I investigated more individual complaints than my office ever has before. The number of complaints I received was up by around 50% over the previous (already heavy) year. And the number of inquiries was up by a similar proportion over the same period. I accepted some 72 complaints for inquiry plus eight carried over from the previous year. And despite the complexity of some of the complaints and the fact that most of the caseload started within the year, I nevertheless completed my work on 51 complaints, an increase of 10% over the previous year.

The increase in complaints received began when the initial disclosures about Members' allowances were made in May 2009, and reached a peak in June and July 2009, perhaps when people had had a little more time to assimilate the issues, check the facts for themselves, and identify the conduct they looked to me to investigate. As a result of the number of complaints I accepted for investigation, at one time last summer I was inquiring simultaneously into some 40 complaints. The last half of the year, therefore, was particularly highly pressured. During the last seven months I submitted on average one memorandum every two weeks to the Committee on Standards and Privileges. Taking the year as a whole, I concluded work on an average of about one complaint each week.

There was a further surge in complaints in the weeks leading up to the Dissolution of Parliament. As a result, I carried over into the new financial year and subsequently into the new Parliament 25 inquiries. I will be working hard to resolve all these complaints as soon as I fairly can in the first session of the new Parliament.

I was pleased to have the opportunity to contribute to the thinking on the future of the Members' expenses scheme and on the role of my office. I was glad to give written evidence to the Committee on Standards in Public Life to assist it with its expenses inquiry, and to be the final witness to give evidence at its open sessions. I subsequently advised the Committee on Standards and Privileges on aspects of the Report affecting my office. I have already established contact with the new Independent Parliamentary Standards Authority (IPSA) and its interim Compliance Officer.

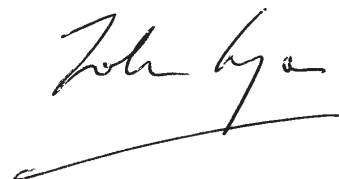
I was glad that the Committee on Standards in Public Life recommended that the work on the registration of interests should remain with the House as part of the House's responsibility for establishing and enforcing its Code of Conduct for Members of

Parliament. Despite the uncertainties which followed the earlier legislation which would have transferred this work to the Independent Parliamentary Standards Authority, I am pleased that my office continued to produce registers of interests throughout the year and to maintain its high standard of service to Members.

One of the themes of the year has been a welcome move to greater transparency and openness about the conduct of Members. The more detailed registration of additional employment which my office implemented from July 2009 was a further move in making available through the Registers further information about Members' external interests. I recommended to the Committee on Standards and Privileges greater openness about my work on complaints, including publishing regularly details of the number and nature of the complaints I was considering and my letters concluding cases along with the evidence on which my conclusions were based. The Committee supported my recommendations. But they require a motion of the House before they can be implemented, and such a motion was not tabled before the Dissolution. I hope that this can be done in the new Parliament.

I look forward, therefore, to this office playing a full part in developing the standards system in the new Parliament. I propose to review the Code of Conduct for Members of Parliament to ensure that it continues to meet current needs and expectations, as well as reflecting the new responsibilities of IPSA. I look forward to briefing as many Members as possible about my role and the standards expected of them. I will continue to work to resolve complaints about the conduct of Members. My aim in all this work is to do everything I can to ensure that the Members of the new Parliament are aware of their responsibilities and live up to the public's—and their own—expectations of the conduct required of them.

I have been grateful for the impressive support I have received from all members of my office, to the House authorities for the additional staff resources they readily provided to help cope with the greatly increased workload and to the Committee on Standards and Privileges and its staff for the close interest they have taken in my work and for the priority each Member gave to their consideration of my reports.

A handwritten signature in black ink, appearing to read 'John Lyon', with a long horizontal flourish underneath.

27 July 2010

John Lyon CB

1 Review of the year

1.1 In April 2009, at the start of the period covered by this report, the Committee on Standards in Public Life, chaired by Sir Christopher Kelly, was preparing to undertake a wide-ranging review of Members' allowances, with the aim of reporting early in the 2010 Parliament. The Green Book, which set out the rules under which Members might claim for their expenses, had just been issued in a revised edition which set out for the first time the principles which the House had agreed should underpin the allowance system, and strengthened the requirement for Members' claims to be supported by documentation. The House authorities had decided to make available publicly online the documentation relating to Members' claims against their expenses from 2004-05 to 2007-08, and work was under way to scan what was reported to be 1.2 million documents and to redact them to remove personal and incidental information. This work was expected to be completed, and the documents published online, in July 2009.

1.2 The plans of the House authorities were overtaken by the publication in the media of some of these documents, which a national newspaper had obtained, without the intended redactions. After that, Members' use of their expenses were hardly out of the media. The House went ahead with its planned publication of Members' expenses claims in redacted form, which was brought forward to 18 June, but by then the *Daily Telegraph* had run a series of front page articles about Members' claims for their expenses, supported by evidence of their claim forms and other documents which it also made available online. The allegations were that numbers of Members had used the allowance system, and in particular the allowances paid to reimburse them for the costs of overnight stays away from home, for their own benefit.

1.3 Public reaction, which was swift and vocal, prompted the House authorities to respond. On 19 May Mr Speaker Martin chaired a meeting of the Members Estimate Committee and the Party leaders to consider a paper from the Prime Minister on the rules for Members' expenses. On 20 May the Leader of the House announced a series of measures intended to restore public confidence in Members. These arrangements included:

- a. an audit of Members' claims over the past four years, designed to identify those claims which should not have been made and should not have been paid. This was to be supported by arrangements for repayment;
- b. immediate changes to the rules on Members' allowances, including a cap on interest payments for accommodation, a restriction on any changes to the designation of Members' main and second homes and new rules for claims by Members who were married or living together as partners. These changes were incorporated into a further revised edition of the Green Book, effective from July 2009;
- c. the establishment of a statutory Independent Parliamentary Standards Authority whose remit would extend to Members of both Houses. The new Authority was to make rules governing Members' conduct, to investigate complaints, to take forward the expected recommendations of the Committee on Standards in Public Life on allowances and authorise claims for payment under the new allowance system. It

was also to maintain the Register of Members' Financial Interests, including dealing with the disclosure of second incomes. Disciplinary issues that might require sanctions, such as suspension, would however remain a matter for the House.

1.4 These proposals were set out, with some modifications, in the Parliamentary Standards Bill, which was supported by the leaders of all the major parties. It received its first reading on 23 June 2009 and its second reading on 29 June 2009. Introducing the Bill, the Secretary of State for Justice said that

“As every Member can personally testify, the expenses scandal has profoundly affected the public’s trust in us as individuals and in the House as the heart of our democracy. In almost equal measure, it has seriously damaged our confidence in ourselves....”

1.5 The Bill provided for a new Independent Parliamentary Standards Authority (but with a remit which did not extend to the House of Lords) and for a new Commissioner for Parliamentary Investigations who would report to the new Authority, which would be able to recommend penalties to the House, or to refer matters to the police. As introduced it would also have created three new criminal offences. The Bill was founded upon an acceptance that in future the House would no longer be able to rely on self regulation in respect of Members' expenses.

1.6 The Secretary of State for Justice foresaw that the Bill would be modified and refined during its passage through the House, and so it proved. Concerns were expressed in the House about the compatibility of the new arrangements with the Human Rights Act, about the implications of the new Commissioner for Parliamentary Investigations for the privileges of the House as well as for my own role, and about the interaction between the existing Code and the new Code on financial interests which the new Authority was to draw up. The Clerk of the House, as its most senior official, also raised, in evidence to a select committee, a number of questions about the implications of Clause 6, which was to provide a statutory framework for the Code of Conduct. That resulted in the withdrawal of Clause 6. The Clerk also raised concerns about the “chilling effect” on members' freedom of speech of Clause 10 of the Bill, which attempted to set out the relations between parliamentary privilege, court proceedings, and the proceedings of the new authority. It was felt that these complex issues would benefit from more thorough consideration and the Clause was defeated. And the three new criminal offences relating to Members' expense claims were reduced to a single one, namely that of providing false or misleading information for claims under the scheme for Members' allowances.

1.7 The Parliamentary Standards Bill received its Second Reading in the House of Lords on 8 July 2009 and Royal Assent on 21 July 2009. But consideration of the arrangements for Members' allowances and expenses continued. The Secretary of State said that he anticipated that the requirements of the new expenses scheme would be founded on the recommendations of the Committee in Standards on Public Life. That Committee was expected to publish its Report in the autumn.

1.8 Meanwhile, on 30 April 2009, the House had resolved that in future Members' staff should be employed by the House, but still managed by Members. The House of

Commons Commission was asked to submit recommendations for implementing this proposal. It reported to the House on 26 October 2009.¹ The Commission did not commend the proposed scheme to the House, on the grounds that it would have heavy costs without clear benefits; that it would place Members' staff in an ambiguous employment relationship; and that it would reduce significantly the flexibility Members currently have to manage their staff. The proposal was not implemented.

1.9 Consideration of the framework for parliamentary standards continued. The Committee on Standards in Public Life had brought forward its planned review of Members' allowances at the request of the Prime Minister. On 4 June, I was pleased to submit written evidence on my own remit in relation to monitoring the operation of the Code, giving advice and investigating and resolving complaints. The Committee invited me to supplement this with oral evidence, which I did on 16 July.²

1.10 At the hearing on 16 July I confirmed my belief that I had the independence and resources I needed in order to carry out my functions as Commissioner. I said that I had experienced no interference. I foresaw a continuing challenge to make sure that Members were able to do their job while being able to assure their constituents and the public that they were not misusing the expenses system. I suggested that, in order to avoid further stresses on any new expenses system, it was necessary also to resolve questions of MPs' salaries and of party funding. I said that for the future, transparency and a clear understanding of the rules would be of fundamental importance, as would clear management of the system and clear audit. I said that I shared with the House authorities and others the responsibility of bringing home to Members and their staff the importance of understanding and abiding by the rules.

1.11 On 4 November 2009 the Committee published its Twelfth Report.³ The Committee recommended further modifications to the arrangements for the new Authority. It recommended that the new Authority's enforcement powers should be strengthened and that it should be able to appoint its own Compliance Officer in order to investigate reports of breaches of the rules on expenses, including following requests from the Authority or from complainants. This appointment would replace that of the Commissioner for Parliamentary Investigations. The Committee also recommended that the House should retain responsibility for the Register of Members' Financial Interests and the Code of Conduct. It recommended that Members should continue to be able to undertake some reasonable external paid activity, and that in order to increase transparency Members should be required to register positions in voluntary and charitable organisations. The Committee recommended that, in addition, the Ministry of Justice should issue guidance requiring all election candidates to publish information about present and expected future interests. The Committee also recommended that after a five year transitional period Members should no longer be able to employ family members. Finally, following a suggestion by the Chairman of the Committee on Standards and Privileges, it recommended that that Committee should be enlarged to include two external members.

¹ House of Commons Commission, Employment of Members' staff by the House, HC 1059

² http://www.public-standards.org.uk/Library/Public_Hearing_No_10_Transcript16.07.09.pdf

³ Committee on Standards in Public Life, Twelfth Report, Cm 7724

1.12 In relation to my own role, the Committee recommended that my remit should be widened to enable me to undertake an inquiry on my own initiative without receiving a complaint on that issue, and that my memoranda should include indications of the seriousness of any breaches of the rules. It also recommended that the Code should be amended to allow me to consider complaints about Members who were formerly Ministers and had taken up outside employment which was not in accordance with the guidance given by the Advisory Committee on Business Appointments. In order to strengthen enforcement action, the Committee suggested that the Standards and Privileges Committee should always consider reducing or removing the resettlement grant of any Member who had seriously abused the expenses system or committed a serious breach of the Code of Conduct.

1.13 On 24 November the Committee on Standards and Privileges published its response to the proposals from the Committee on Standards in Public Life.⁴ In relation to the suggestion that Members should be required to register positions of responsibility in voluntary or charitable organisations, the Committee said that they believed that this would blur the Register's central purpose of recording Members' financial interests. They noted that it was for the Ministry of Justice to make administrative arrangements for the registration of electoral candidates' interests. The Committee also offered suggestions about how it might accommodate the two new external members who had been proposed.

1.14 The Committee qualified their approval of the proposals for changes to my remit and working practices. To the recommendation that in future I should be able to open an inquiry without having received a complaint, they responded that this would amount to a fundamental change to my role, requiring a significant increase of resources. They emphasised that they considered it important that I should have a firm evidential basis for my inquiries. To the suggestion that in my memoranda I should indicate the seriousness with which I regarded breaches of the rules, they replied that I already did so through my choice of language. They noted that should this develop into something more formal, such as a sliding scale, it could create an unwelcome confusion between the roles of the Commissioner and the Committee, because it would in effect involve my setting a tariff. They nevertheless welcomed my undertaking to include in future memoranda clearer indications of the seriousness with which I viewed any breaches. The Committee also expressed some misgivings about the proposal that I should consider breaches of the guidance given by the Advisory Committee on Business Appointments (ACOPA), which they would have preferred to have seen dealt with by legislation.

1.15 The Committee on Standards and Privileges said that they would be ready to consider recommending withholding resettlement grant in future cases, without making it a sanction of first resort. (In fact the Committee recommended and the House agreed to the use of such a sanction in relation to a case which soon afterwards came before them.⁵) The Committee noted that legislation would be required to enable the new authority to impose its own sanctions for breaches of the expenses regime, and said that these would need to be carefully defined, in order that they did not become disciplinary sanctions, which ought to remain a matter for the House.

⁴ Second Report of Session 2009-10, HC 67

⁵ Seventh Report of Session 2009-10, HC 310. See also paragraphs 3.32 to 3.35 of this Report.

1.16 The audit of Members' past claims against the Additional Costs Allowance, which had been announced by the Leader of the House on 19 May 2009, continued through the autumn under the leadership of Sir Thomas Legg. His initial remit was to conduct an independent review of all claims made by Members of Parliament against this allowance during the financial years 2004-05 to 2007-08, examining the payments made against the rules and standards in force and recommending repayments where he considered these necessary.

1.17 The work of Sir Thomas and his team had the potential to overlap with my own inquiries, where I received a complaint that an expenses claim had breached the rules of the House. My own role is part of the disciplinary system of the House. I inquire into specific complaints relating to breaches of the rules of the House by named Members. When I submit an account of my investigation and my findings to the Committee on Standards and Privileges, that affords the Committee an opportunity to consider the matter and decide if the rules have indeed been broken. If the Committee considers that there is a case for sanctions, these will be considered by the House. Sir Thomas Legg's audit was not however a disciplinary process. The procedures he followed, the scope of his work and its outcomes were all different. Nevertheless, I informed his team when I was considering related expenses complaints and I understood that when I did so before Sir Thomas had audited a claim, he would take no further action himself, leaving the resolution of the matter to my investigations. When I received a complaint about a claim which had been audited by Sir Thomas and his team, I was nevertheless prepared to conduct an inquiry where I was satisfied that the evidence was such as to suggest a significant breach of the rules, since this would if necessary enable the House to consider any disciplinary action if my inquiry identified a breach.

1.18 Sir Thomas submitted his Report to the Members Estimate Committee on 16 December 2009. Meanwhile, Sir Paul Kennedy had been appointed on 1 December to oversee an appeals process. 75 Members submitted grounds for appeal and the outcomes were reported on 29 January 2010. The Members Estimate Committee published his decisions, along with the findings of Sir Thomas Legg on 4 February 2010.⁶

1.19 During the passage of the Constitutional Reform and Governance Bill, the Government acted to implement the main recommendations of the Committee on Standards in Public Life in relation to parliamentary standards. This was effected by introducing amendments to the Bill at Committee stage, which took place on the floor of the House. The House considered these amendments on 1 February 2010. The Bill received its second reading in the House of Lords on 24 February 2010, and Royal Assent on 8 April 2010. The relevant parts of the new Act came into force on 19 April 2010.

1.20 As enacted, and in accordance with the recommendations of the Committee on Standards in Public Life, the Constitutional Reform and Governance Act replaced the Commissioner for Parliamentary Investigations with a Compliance Officer. It removed from the new Authority responsibilities for the Register of Members' Financial Interests and for oversight of the Code of Conduct for Members of Parliament, which remain with the House and with my office. And it made clear that the Authority was to have regard to efficiency, cost effectiveness and transparency, both in its own actions and in those of the

⁶ Members Estimate Committee, First Report of Session 2009-10, Review of Past ACA payments, HC 348

Members whom it supports. The Act also brought together the administration and oversight of Members' remuneration package by giving the Authority statutory responsibilities for determination as well as payment of Members' salaries.⁷ Those responsibilities were previously shared between the House and the Senior Salaries Review Body. And it provided for three external members to sit on the new Speaker's Committee which make the appointments to the Board of the new Authority.

1.21 The new Compliance Officer's role is envisaged as complementary to my own. The Act requires him or her to work with the new Authority to prepare a joint statement setting out how he or she will work with my office and others, including the Commissioner of the Metropolitan Police and the Director of Public Prosecutions. The Compliance Officer's remit is however limited to the scheme for Members' allowances. The Compliance Officer is to investigate cases where he or she believes that there may have been a wrong payment to a Member under that scheme. They may pass information from their investigations to me if it is considered relevant to my work.

1.22 The Authority announced the appointment of an interim Compliance Officer on 4 June 2010.⁸ I have now had an early introductory meeting with him and look forward to working with him and the Authority on the statutory arrangements the Authority are required to make for working with my office. The new Authority has also published, in accordance with statutory requirements, a consultation document on the Compliance Officer's procedures.⁹ I will report on the outcome of this consultation in next year's Annual Report. But it is clear even now that some of these procedures, being statutory, are likely to differ substantially from my own. In particular, the procedures of the Authority are subject to review by the courts, and a Member who does not agree with the findings of the Compliance Officer will be able to appeal to a First Tier Tribunal. The Compliance Officer will also be able himself to make directions for repayment.

1.23 While my work in investigating complaints has received considerable media attention during the year, one of the other aspects of my work, on the registration of Members' financial interests, has been less in the public eye. There have nevertheless been significant changes, as foreshadowed in my last Annual Report. A revised Guide to the Rules, incorporating the changes agreed by the House in February and April 2009 was published in June 2009. Members are now required to provide details of payments made to them in respect of extra-parliamentary work. They are also expected to provide, in addition to the details of their registrable interests previously required, the information which is required by the Electoral Commission in respect of registration Categories 4 (Sponsorship), 5 (Gifts, benefits and hospitality (UK)) 6 (Overseas visits) and new Category 10 (Controlled transactions within the meaning of Schedule 7A of the Political Parties, Elections and Referendums, not otherwise recorded in the Register). As a result they are no longer required to register these details with the Electoral Commission.

1.24 These changes have had implications for the work of my office. Since the new requirements came into force on 1 July 2009, the Electoral Commission has been able for the most part to derive the information it is required to publish in respect of Members of

⁷ I understand that the new Authority is unlikely to assume these responsibilities until 2011-12.

⁸ Mr Alan Lockwood

⁹ This was published on 16 June 2010.

Parliament by drawing it from the published Registers of Members' Financial Interests. When the House is sitting, the Register is usually published about once a fortnight. This pattern is interrupted after a General Election, in order to accommodate the extensive work of compiling the first Register of the new Parliament, and during the summer recess when publication is less frequent. To allow the Commission access to the information it needs during such periods, and for connected purposes, a Memorandum of Understanding has been reached between my office and the Electoral Commission which I and the Commission's Chief Executive signed on 15 April 2009.¹⁰

1.25 This Memorandum allows the Electoral Commission, during the summer recess and at other relevant times, access to the relevant returns by Members to my office in order to make extracts, scan or take copies of the necessary information for publication in its own Registers. Other provisions are designed to ensure that, following the first publication of the Register, new material is readily identifiable; that it is clear that the Registrar of Members' Financial Interests is responsible for the collection, retention and storage of the original material supplied by Members in accordance with the Rules of the House of Commons; that my office will collect and transmit to the Commission for verification purposes the addresses of private donors; that my office will refer questions about the permissibility of donations and regulated transactions to the Commission; that when the Commission form the opinion that a donation or regulated transaction recorded in the Register may be impermissible they will first contact my office to exclude the possibility of an error in recording the information or transmitting the address; and that my office and the Commission may jointly hold seminars for Members on reporting and permissibility requirements. This Memorandum will be reviewed regularly.

1.26 It is clearly helpful that my office and the Electoral Commission work together on matters where our responsibilities can be aligned. It helps to avoid confusion about the information provided in our separate registers, avoids Members being asked to provide the same information to two different bodies, and should increase the efficiency of its operations if the Electoral Commission is not required to duplicate work already undertaken by my office.

1.27 Changes have also taken place in the House of Lords which are relevant to my work. On 30 November 2009 that House approved a new Code of Conduct supported by a more detailed Guide to the Rules, which came into effect near the beginning of the current Parliament on 18 May 2010. This was part of the wider reforms of governance structures in the House of Lords, which included more demanding rules on the declaration of interests and more explicit requirements in relation to the use of parliamentary facilities. The reforms also provided for the appointment of a new House of Lords Commissioner for Standards. On 2 June 2010 the Leader of the House of Lords announced the appointment of the first Commissioner.¹¹ His appointment will be for an initial period of three years.

1.28 While the role of the new Lords Commissioner for Standards is clearly separate from my own in the House of Commons, and we both act independently of our own House and of each other, it clearly makes sense for us to know and understand each other's procedures

¹⁰ See Appendix 3

¹¹ Mr Paul Kernaghan CBE QPM, former Chief Constable of Hampshire

and the principles which underpin them. I look forward to my contacts with the Commissioner on matters of common interest.

1.29 The early weeks of the 2010 Parliament have required Members and the House to adjust to the new system for paying Members' expenses. This is the first time that the Members of the Westminster Parliament have had their expenses determined and paid by a statutory organisation, and it marks the end of self-regulation in relation to Members' expenses. There is, I believe, a powerful argument for the self-regulation of a sovereign Parliament. But I recognise that practicality overcame the principle of self-regulation in respect of expenses. Independent statutory regulation takes this contentious issue out of the hands of Members and House staff. The operation of the new system will no doubt be kept under close review. And my office and the House can expect the operation by the House of its disciplinary system and its standards to be closely monitored and its effectiveness to continue to be the subject of wider public debate.

1.30 Further changes in the arrangements for standards in the House of Commons can be expected in 2010-11. I hope that the new Committee on Standards and Privileges will consider the remaining recommendations of the Committee on Standards in Public Life as well as the amendments which are required, following the establishment of the Independent Parliamentary Standards Authority, to the Standing Orders of the House, to the Guide to the Rules and to my Procedural Notes. I hope also that among its other priorities the House will find the time to consider my own proposals to publish more information about current and resolved inquiries.¹² These received the support of the last Committee but await a Resolution of the House before they can be implemented. Finally, I had hoped that the House would, before the General Election, have found time to consider various rule changes recommended by the Committee on Standards and Privileges in its Eighth Report of Session 2008-09 on 'All-Party Groups'. These sought mainly to improve transparency about the sources of support provided to groups, and to merge the two distinct yet related sets of rules governing the Register of All-Party Groups and the Approved List. I hope the House will agree to adopt these changes in the new Parliament.

¹² See paragraph 2.5.

2 Looking outward: information and advice

Responding to enquiries from the general public

2.1 The extensive media coverage given to the disclosure of Members' expenses claims and to complaints about these resulted in an unusually but understandably high number of letters, e-mails and telephone calls from the general public during the year. These communications expressed three types of concern: about Members in general; about the actions of individual Members; and about inquiries into individual complaints.

2.2 My staff responded individually to each of these communications. To those who wrote expressing their views about Members in general, we explained the complaints system and where to obtain further information, for example about the rules of the House. To those who wrote about individual Members we explained my role and the extent of my remit, and the procedure for submitting complaints, including the need for complainants to supply sufficient evidence to justify an inquiry. To those who asked about individual inquiries my office explained the process I follow during those inquiries. In accordance with the procedures agreed with the Committee on Standards and Privileges in 2003¹³ my office does not give progress reports or comment on ongoing inquiries.

2.3 In view of this interest in my current inquiries, it may be helpful to set out here this process as described in my Procedural Note 5.¹⁴ If asked whether I am considering a complaint against a particular named Member, my office will always let the enquirer know if I am considering or have accepted a complaint against that Member. Once inquiries are complete, my office will confirm, if asked, whether I have submitted a memorandum to the Committee, and in other cases whether I have resolved the complaint through the rectification procedure, or decided not to uphold it.

2.4 In cases where I do not uphold the complaint or where I make use of the rectification procedure provided for me in Standing Order No 150¹⁵, I do not submit a formal memorandum to the Committee on Standards and Privileges. I close the complaint by writing to the complainant, explaining the scope of my inquiry, the evidence I have considered and the reasons for my decisions. I then inform the Committee of this outcome at its next meeting. I do not myself publish these decision letters, but it is open to the Member or the complainant to do so.

2.5 During the year, in view of the public interest in complaints about Members' use of their expenses and in the outcomes of these, I considered that there were strong arguments for publishing more information about those cases which I do not formally report to the Committee. In January 2010 I therefore proposed to the Committee that I should in future publish on my webpages, as soon as possible after they are produced, my decision letters on

¹³ Procedural Note 5: Policy on the Disclosure of Information about the Handling of Complaints against Members of Parliament, September 2003

¹⁴ <http://www.parliament.uk/documents/pcfs/pcfsprocednote5.pdf>

¹⁵ See Appendix 1 of this Report

specific complaints which I have rectified or not upheld, and the supporting evidence. I recommended that these decision letters and, in due course, the evidence should be published for all inquiries completed since January 2008. I also proposed that I should in future publish statistical information about current complaints, including the number of formal complaints I have received, and the number accepted for inquiry and resolved each month, together with a list of the names of Members who were subject to an inquiry. The Committee approved these arrangements, but noted that they would require the agreement of the House, which is awaited.¹⁶ I hope that it will soon be possible to find the time for the House to consider these proposals.

Freedom of Information Requests

2.6 During the year my office responded to twenty-three requests for information under the Freedom of Information Act 2000. Eleven related to individual inquiries or to repayments made by individual Members. Three asked for details of costs, whether of my office or of particular inquiries; six asked for statistics, such as the number and type of complaints under inquiry or those resolved in a particular way; two asked for information about all party groups and one about the hospitality received by Members. In response to such requests the approach of my office is to disclose the information requested where this is permitted under the procedures agreed for me by the House as set out in Procedural Note 5.¹⁷

Responding to enquiries from the media

2.8 In addition to enquiries from the public, my office responded to over 180 media enquiries during the year. The majority of these related to complaints under consideration or under inquiry, where again my office provides as much general information as possible and follows the approach set out in Procedural Note 5.¹⁸

Relations with other standards bodies

2.9 I am pleased to report that during the year my office continued to maintain our contacts with the Standards Commissioners for the devolved administrations. We also worked closely with the Electoral Commission, in particular on developing a Memorandum of Understanding, which I have described elsewhere in this Report.¹⁹

International work

2.10 My office has continued to provide presentations and discussion sessions to visiting parliamentarians and parliamentary staff. This year I have provided seminars for the Commonwealth Parliamentary Association and for visiting university students, and the Registrar has met MPs from Kenya, from the Democratic Republic of Congo (under the

¹⁶ Committee on Standards and Privileges, press notice of 27 January 2010

¹⁷ Procedural Note 5: Policy on the Disclosure of Information about the Handling of Complaints against Members of Parliament, September 2003.

¹⁸ *Ibid.*

¹⁹ See paragraphs 1.24–1.26 and Appendix 3 to this Report

aegis of the All-Party Parliamentary Group on the Great Lakes Region of Africa), parliamentary staff from the Bundestag, members of the Pakistan Youth Parliament and a group from the Industry and Parliament Trust.

Advice to Members and others

2.11 In addition to the work described above, my office continues to give advice daily, on request, to Members. This includes advice on wider issues, including those which could raise general questions of propriety. Advice is given by telephone, letter, e-mail and face-to-face. Requests for advice about the requirements to register and declare interests always increase in the event of a rule change, and the changes of the last year were no exception to this. The advice from my office is confidential and only disclosed in the event of its becoming relevant to one of my inquiries.

2.12 The Assistant Registrar carries out the advice function in respect of the obligations placed by the House on Members' staff, All-Party Groups and journalists. She contributes to the House's induction sessions which are held every few months for new employees of Members.

3 Complaints

3.1 During the year beginning 1 April 2009, I received more complaints than in any previous year for which statistics about the Commissioner's work are available.²⁰ I received 317 formal complaints and I inquired into 80 complaints, including 8 brought forward from 2008–09. This was more than any other recent year except for 2006–07 when my predecessor inquired into multiple complaints, from the same two Members, about dining clubs. I was able to complete my work on 51 complaints, including the eight which were brought forward.

3.2 At the end of the year I carried forward to 2010–11 25 complaints which were under active inquiry. Four inquiries remained suspended.²¹

3.3 This increase in the number of complaints which I received and considered during the year was attributable to the disclosures about Members' use of their parliamentary allowances. As will be seen from the paragraphs which follow, the majority of those complaints related to Members' claims against those allowances.

Complaints received and considered in 2009–10

3.4 All the complaints sent to my office received careful consideration and an individual response, almost always within five working days.

3.5 The 317 formal complaints which I received and considered were against 187 named Members. I accepted 72 complaints for inquiry, since in these cases, I was satisfied that the complainant had submitted sufficient evidence to justify me inquiring into whether the Member was in breach of the rules of the House.

3.6 Under the procedures agreed by the Committee on Standards and Privileges, I am unable to inquire into complaints unless they are signed and in hard copy. My office receives each year a number of complaints by fax or email, and these were particularly numerous in 2009–10. Where the subject matter of these complaints appeared to come within my remit, my office invited the complainants to submit their complaints formally in writing so that I could consider them further. Those which were so submitted are recorded among the 317 formal complaints I received.

3.7 During 2009–10 sixteen Members asked me to consider allegations against them which were not the subject of a complaint by a third party. This is an unusually high number of self-referrals. The procedures agreed for me by the House require me to consult the Committee on Standards and Privileges before accepting the matter for inquiry.²² After consultation with the Committee I opened inquiries into a total of fourteen such self-referrals.²³

²⁰ Figures for complaints in this chapter should be taken, unless otherwise stated, as including allegations referred for inquiry by Members themselves, where I did not receive a complaint from a third party. These allegations are termed "self referrals". (See paragraph 3.7.)

²¹ See paragraph 3.84

²² The Code of Conduct and Guide to the Rules relating to the Conduct of Members 2009, HC 735 paragraph 104

²³ See footnote above. Two self referrals were made by the same Member.

Complaints accepted for inquiry in 2009-10

3.8 Table 1 shows the number of complaints accepted and not accepted for inquiry during each quarter, and the reasons why I did not accept certain complaints. Under the procedures agreed with the Committee on Standards and Privileges, my remit does not include, for example, policy matters, the expression of a Member's views or opinions or a Member's decisions as to the handling of a constituent's case. It will be seen that, as in previous years, the largest category of those I was unable to accept were those where the complaint fell outside my remit.

Table 1: Complaints considered in 2009-10

	<i>Quarter 1 Apr-Jun 2009</i>	<i>Quarter 2 Jul-Sept 2009</i>	<i>Quarter 3 Oct-Dec 2009</i>	<i>Quarter 4 Jan-Mar 2010</i>	<i>Totals</i>
1. Formal complaints received in 2009-10	105	73	55	84	317
2. Complaints subject of inquiry:					
(a) Complaints under inquiry and brought forward from 2008-09	8				
(b) New complaints accepted for inquiry	34	14	7	17	72
3. Complaints not inquired into:					
(a) because complaint fell outside remit	41	18	19	27	105
(b) because complaint did not concern a breach of the rules	12	18	21	20	76
(c) because insufficient supporting evidence was provided	9	22	7	15	53
(d) because a similar complaint had already been accepted	4	1	1	5	11
Total complaints not inquired into	71	59	48	67	245

Note 1: If a correspondent names more than one Member in a complaint, each is recorded as a separate complaint. Similar or duplicate complaints from different individuals are also recorded as separate complaints.

Note 2: Complaints received include 9 self referrals received in Quarter 1; 1 in Quarter 2, 3 in Quarter 3 and 4 in Quarter 4.

Note 3: New complaints accepted are shown under the quarter in which they were received, even if they were accepted (for example, after additional evidence had been supplied) in a subsequent quarter.

Note 4: Two inquiries were opened and then suspended in Quarter 1; one inquiry was suspended in Quarter 2 and two were suspended in Quarter 3. I resumed work on one inquiry in Quarter 4, and I also discontinued my work on one further inquiry.

Complaints resolved in 2009-10

3.9 During the year I was able to conclude my work on 51 complaints. I upheld 34 complaints against 31 Members in whole or in part. The 34 complaints which I upheld consisted of 20 which I concluded by means of memoranda to the Committee on Standards and Privileges, and 14 of a less serious nature which I was able to conclude by means of the rectification procedure. I did not uphold 17 complaints.

3.10 Table 2 sets out on a quarterly basis the numbers of complaints resolved during the year and shows how they were resolved.

Table 2: Complaints resolved in 2009-10

	<i>Quarter 1 Apr-June 2009</i>	<i>Quarter 2 Jul-Sept 2009</i>	<i>Quarter 3 Oct-Dec 2009</i>	<i>Quarter 4 Jan-Mar 2010</i>	<i>Total</i>
1. Complaints upheld:					
(a) resolved through rectification procedure	3	2	1	8	14
(b) subject of Memorandum to Committee on Standards and Privileges			6	14	20
Total complaints upheld	3	2	7	22	34
2. Complaints not upheld:					
(a) without a formal report to the Committee	2	7	3	3	15
(b) subject of Memorandum to Committee on Standards and Privileges			1		1
(c) Other ²⁴				1	1
Total complaints not upheld	2	7	4	4	17

Reports to the Committee

3.11 In cases where I set out my findings in a Report to the Committee on Standards and Privileges, I include in that report the complaint I have received and the supporting evidence supplied by the complainant, together with a detailed account of my enquiries, which is accompanied by the evidence I have received. I summarise the facts. I then state my conclusions on the different elements of the complaint, explaining whether or not I

²⁴ See paragraph 3.85.

uphold each of these and the reasons for this. I also indicate how seriously I regard any breaches.²⁵

3.12 During the year I submitted to the Committee thirteen memoranda on a total of twenty complaints about nineteen Members. I upheld all but one of these complaints. The allegation which I did not uphold had been referred for inquiry by the Member himself.²⁶ I considered that in the absence of a complainant to whom I could write with my findings, the public interest required me to set out the evidence and my conclusions in a formal Memorandum to the Committee.

3.13 The Committee agreed with my findings in each case which I reported formally to them this year, although on occasions they took a different view of the seriousness of the breach.

Use of the rectification procedure

3.14 The rectification procedure is set out in subparagraph 3 of Standing Order No 150. This provides that no report to the Committee shall be made by the Commissioner:

“(a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner’s opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

(b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable.

3.15 I normally consider whether to institute this procedure in circumstances where the Member accepts that there has been a breach of the rules of the House, where there is no clear evidence that the breach was intentional and it was at the less serious end of the spectrum. I also consider whether the Member has taken appropriate action to rectify the matter, including any financial recompense, and to avoid a recurrence. The Committee expects the Member to tender an apology. I then write to the complainant explaining the actions the Member has taken, and I report the matter to the Committee on Standards and Privileges, at the same time conveying the Member’s apology.

3.16 During the year I resolved fourteen inquiries by means of this procedure. The majority (ten) concerned Members’ use of their Communications Allowance or of House of Commons stationery and pre-paid envelopes. In addition, I rectified three complaints concerning the use of the Incidental Expenses Provision, and one concerning the Additional Costs Allowance.

²⁵ This is in accordance with the recommendation of the Committee on Standards in Public Life. See paragraph 1.12 of this Report.

²⁶ Eleventh Report of Session 2008-09, HC 1101. See paragraph 3.26 – 3.27 of this Report.

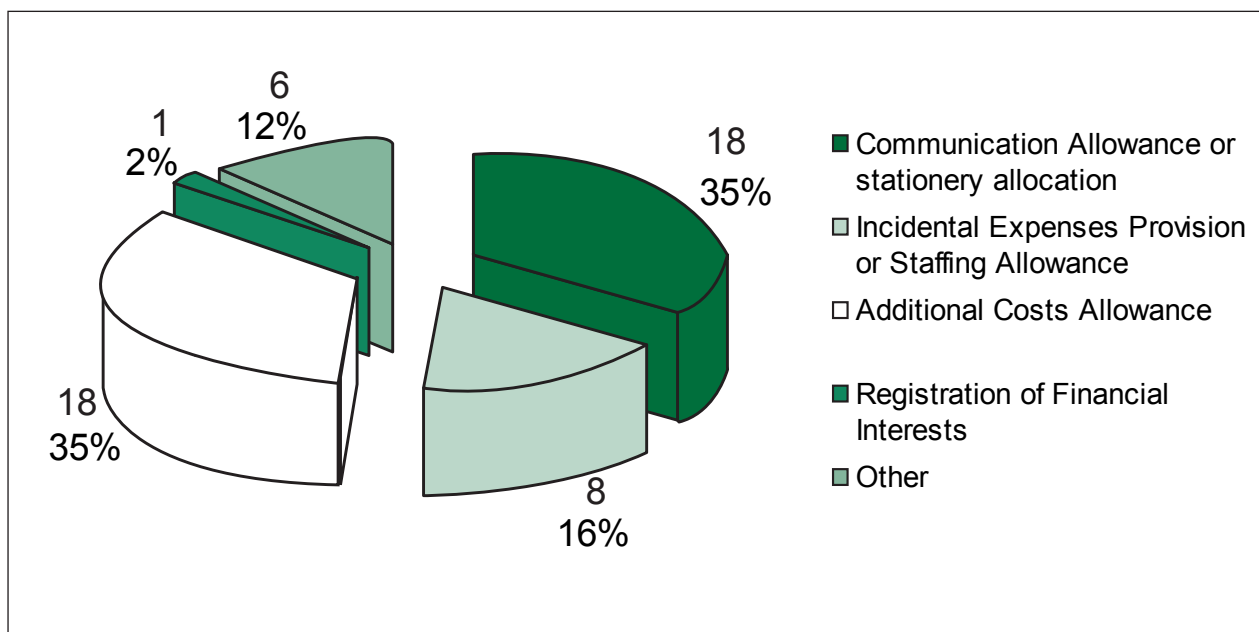
Complaints not upheld

3.17 In 2009-10 I did not uphold sixteen of the complaints which I inquired into. This was because, upon inquiry, the facts did not substantiate the complaints made. In some of these cases this became clear at an early stage, for example because the complainant was under a misapprehension as to the facts, but in others it was necessary to obtain detailed corroborative evidence before I could conclude my inquiry. In any event, as soon as I had satisfied myself that the complaint was not substantiated, I wrote promptly to the complainant and to the Member concerned to explain both my conclusion and the reasoning behind it. As explained above, I reported to the Committee my inquiry into one further complaint which I did not uphold.²⁷

Analysis of complaints resolved during the year

3.18 Chart 1 shows the principal subject matter of the complaints I resolved in 2009–10. Perhaps not surprisingly in view of the level of public concern, over 90% of these related to Members’ use of their allowances. Eighteen (35%) concerned Members’ use of the Additional Costs Allowance; a further eighteen (35%) concerned Members’ communications, specifically their use of pre-paid envelopes or other stationery, or of their Communications Allowance, eight (16%) concerned the use of the Incidental Expenses Provision or Staffing Allowance, one complaint concerned the registration of financial interests, and six cases (12%) concerned other matters. These were payments received by Members from their landlords in respect of accommodation on which they had claimed against the Additional Costs Allowance.

Chart 1: Principal subject matter of complaints considered and resolved in 2009-10



²⁷ See paragraph 3.12

Additional Costs Allowance

3.19 During the year I resolved eighteen complaints concerning Members' use of the Additional Costs Allowance. The purpose of this allowance was to reimburse Members for costs wholly, exclusively and necessarily incurred when staying overnight away from their only or main UK home. It was available to all Members except those whose constituencies fell within inner London. This allowance was known after 1 April 2009 as the Personal Additional Accommodation Expenditure.

3.20 I upheld twelve of these complaints. Eleven complaints were resolved by means of memoranda to the Committee, and one by means of the rectification procedure available under Standing Order No 150. Upon inquiry I found that six complaints were not substantiated by the facts, and therefore did not uphold these.²⁸

3.21 Ten of the thirteen memoranda which I submitted to the Committee concerned the use of this allowance. Five concerned the way in which the Member had designated their main or second home for the purposes of this allowance; three concerned the use by other people of homes whose costs had been claimed against the Allowance, one concerned the rental of a designated second home from a company in which the Member had an interest, and one claims for the costs of a property in which the Member rarely spent the night.

3.22 The rules on the Additional Costs Allowance had since June 2003 prescribed that: *"The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other."* Since April 2004 this rule had applied to all Members, including Ministers.²⁹ Members were permitted to claim for the costs of their designated second home, but not for their main home. The first inquiry on which I reported to the Committee followed an article in a Sunday newspaper alleging that a Member, who was then a Government Minister, had wrongly claimed against the allowances for the costs of her designated second home in her constituency where her partner and children lived, while nominating as her main home a London property shared with her sister.³⁰ The complainant, who was one of the Member's London neighbours, supplemented the newspaper article with eyewitness evidence about the pattern of the Member's overnight stays in her designated main home.

3.23 In the course of my investigation the Member made available information from her Ministerial and official diaries about her pattern of overnight stays. This was supplemented by information which, with her agreement, I had requested from the police who had provided her with protection for part of the relevant period. This evidence demonstrated that while until May 2007 the Member had spent more nights in London than in her constituency, the pattern had changed at that point, and since June 2007 she had spent more nights in her designated second home in her constituency than in her main home in London. This meant that until May 2007 she satisfied the objective test based on those stays. But after then she did not. The rules, however, allow for exceptions to the objective

²⁸ I submitted a Report to the Committee on one of these.

²⁹ Before April 2004, Ministers and office-holders were automatically deemed to have their main homes in London. If they wished to draw on this allowance, therefore, their claims had to relate to overnight stays in their constituency.

³⁰ Ninth Report of Session 2008-09, HC 974

test. The issue I had to consider was whether in this case the objective test should be set aside by the other considerations. I concluded that the nature and use of the two properties, and the balance of nights the Member spent in each, meant that the Member's designation of her main home from April 2004 to March 2009 was not in accordance with the rules of the House. I also found that the Member was in breach of the rules in not notifying the House authorities when the address of her main home changed in 2008.

3.24 I also accepted a separate complaint that this Member had claimed against her Additional Costs Allowance for entertainment items, namely films. I found that she had subscribed to a media package which included cable television, telephone and broadband services for her designated second home. The rules of the House allowed reimbursement for such services, but not for entertainment items, which she had also included in the five separate claims which she made. When these additional claims were brought to the Member's attention she readily accepted that she should not have claimed for entertainment items and reimbursed the House for the costs of her entire media package during this period. I decided that these claims were in breach of the rules of the House and I therefore upheld the complaint.

3.25 The Committee agreed with my conclusions on both these complaints. They noted however that the Member had sought and obtained advice about the designation of her homes in 2007, which they regarded as significant mitigation, that she gained nothing from this lapse and that the public interest was not harmed. They recommended that the Member apologise to the House by way of a personal statement for wrongly designating her main home. The Committee recommended no further action in relation to her media package, as she had already apologised and repaid a sum in excess of what she had wrongly claimed.

3.26 My second memorandum about Members' designation of their main and second homes concerned an allegation that a Member had breached the rules of the House by claiming between 1992 and 2004 for the mortgage interest on a constituency property which he owned outright.³¹ The Member referred himself to me for investigation. In accordance with the requirement to consult the Committee on Standards and Privileges before accepting for inquiry a Member's self referral or an inquiry which goes back more than seven years, I did so.³² The Committee agreed to my accepting the matter for inquiry.

3.27 I found that the Member had bought a London property in 1986, which he later nominated as his main home for parliamentary purposes. He had paid off the mortgage in 1991, but had nevertheless retained the legal charge on the property, which he regarded as more suitable than his constituency property to serve as collateral for a mortgage. When he bought his constituency property later that year, also before he was elected to the House, he secured the mortgage on his London home. But when he took out a new mortgage in 2004, he secured it on the constituency property. I concluded that the rules of the House as they were from 1992 to 2004 did not preclude a Member from raising a mortgage secured on another property to buy a home against which they intended to claim parliamentary allowances. Since this inquiry was not prompted by a complainant, to whom I could write with my findings, but by a request from the Member, I took the view that the public

³¹ Eleventh Report of Session 2008-09, HC 1101

³² The Guide to the rules relating to the conduct of Members, February 2009, HC 735 paragraph 104.

interest required me to set out the evidence and my findings in a formal Memorandum to the Committee. I accordingly did so.

3.28 The third memorandum which I submitted about Members' designation of their homes followed a complaint that between 2001 and 2003 a Member had wrongly claimed against his allowance for the costs of his home in London, which was in fact his main home, and that from 2003 he had claimed unnecessarily for mortgage interest payments on his second home, which was in his constituency, and which, the complainant believed, he had previously owned outright.³³ The complainant also alleged that the Member's mortgage exceeded the purchase price of that home. Since the first part of the complaint related in large measure to events of more than seven years earlier, I consulted the Committee on Standards and Privileges, as I am required to do, before accepting the complaint for investigation.³⁴ The Committee agreed to my initiating this inquiry.

3.29 I found that in 2000, before the Member was elected to the House, he and his wife had bought a property just outside his constituency border, financing the purchase with a mortgage secured on their London home. The Member told me that when he entered the House, he had told the Fees Office that he wished to claim for the interest he paid on the part of his mortgage which represented the borrowing for this constituency home. The Fees Office nevertheless advised him to nominate his constituency home as his main home, which he did from 2001 to 2003, thus leaving him to make claims on his London home. In retrospect the Department of Resources described the advice from the Fees Office on which he relied as "*flawed*". I agreed.

3.30 While Members were able to claim against their allowances for the interest on mortgages or loans used to finance their purchase of a designated second home, they were not able to claim for interest incurred on any part of a loan which related to other expenditure, such as the costs of the purchase transaction or any other expenditure incurred before they entered the House. This Member's mortgage however covered the costs of the purchase transaction and of the initial repairs he had undertaken. In the course of my enquiries, the Member also told me that he had increased his mortgage in December 2005 in order to meet the costs of further repairs on his second home. I found that he had then claimed, when funds allowed, for the interest on his extended mortgage. While these claims had not formed part of the original complaint, since they had been brought to my attention I felt it right to consider whether they fell within the rules of the House.

3.31 I considered that this Member was in breach of the rules from 2001 to 2003 when he wrongly identified his constituency property as his main home and claimed for the mortgage interest which reflected the costs of his London home, which was in fact his main home. I found also that he was in breach of the rules in 2005-06 and 2006-07 when he claimed for the interest on the costs of the initial purchase transaction and initial repairs incurred before he entered the House, and in 2005 when he anticipated a forthcoming change in the rules and extended his mortgage to cover repair costs. I did not regard any of these breaches as particularly serious. The Member had already offered to pay back the sums involved, less what he had previously repaid. The Committee agreed with me,

³³ Sixth Report of Session 2009-10, HC 309

³⁴ The Guide to the Rules relating to the conduct of Members, February 2009, HC 735, paragraph 104

accepting that the breaches were unintended and relatively minor. They recommended that he repay £1,936, less £270 which he had already repaid.

3.32 My fourth memorandum concerning the designation of a Members' home followed a complaint that he had spent most of his nights at his second home in his constituency, and claimed against parliamentary allowances for the costs of that home, while designating as his main home a property in another county.³⁵

3.33 Upon inquiry I found that the Member and his wife had owned this home since 1998, and that since 2002-03 he had claimed the maximum of the allowance for his designated second homes in his constituency. Sadly, from 2003 onwards the Member's wife had suffered a series of debilitating health-related incidents. He and his wife had thereafter lived mainly in his constituency homes. I identified during the course of my inquiries that they had let out their other house on six month leases for all of 2005-06 and for the majority of 2004-05 and 2007-08. Although the rules since June 2003 had prescribed that a Member's main home "*will normally be the one where you spend more nights than any other*", the Member argued that due to his wife's illness, his circumstances were not normal and that it was therefore unfair to apply that rule. While I sympathised with the Member and his wife, I considered that he was in breach of the rules of the House from April 2004 to August 2008 in identifying the property he had let out as his main home and making claims for the costs of his constituency home. I considered that by April 2004 it should have been clear to him that his wife was not well enough for them to continue to use the first property as their main home. I therefore upheld the complaint.

3.34 During the course of my inquiry I also found that the Member was in breach of the rules of the House in not registering in the Register of Members' Financial Interests this house and the fact that he received substantial rental income from it in each year from 2004 to 2008. This was not the subject of the complaint. I found that the Member had registered receipt of this income in 2001, but not in the subsequent years when registration was also required. The Member apologised and made a late entry in the Register.

3.35 The Committee agreed with my conclusions and considered that this was a particularly serious breach of the rules on parliamentary allowances. They recommended that the Member be required to apologise by means of a personal statement on the floor of the House, and that—since he had decided not to stand in the forthcoming General Election—the House authorities should withhold the full amount of resettlement grant which would be payable to him.

3.36 My fifth memorandum about the designation of Members' homes concerned two Members who are married to each other.³⁶ The complainant alleged that the Members had not lived in their designated main home for a year or more, and suggested that their designated second home, in central London, on which they claimed parliamentary allowances, had in effect become their main home. The rules of the House had changed during the period under investigation. Until March 2009 a Member's main home was normally where they spent more nights than in any other place. From April 2009 the designation of a main home was left to each Member "*based on his or her circumstances*".

³⁵ Seventh Report of Session 2009-10, HC 310

³⁶ Tenth Report of Session 2009-10, HC 453

3.37 Upon investigation I found that the Members had started to refurbish their main home in May 2008 in the expectation of returning in December of that year. However, they experienced problems with the work in the later part of the year. In the event, they were not able to move back until October 2009. I considered it fair to allow a reasonable period for adjusting to the building problem. But I concluded that the Members were in breach of the rules in continuing to make claims against parliamentary allowances for their designated second home in central London from June 2009 to October 2009. In my view, the rules of the House require that a Member's home must be somewhere where they can stay overnight. I also considered that they received a personal financial benefit from those claims from December 2008 to October 2009. This was because they had stayed overnight in the flat for four additional nights a week when Parliament was sitting and six additional nights a week in the recess. I therefore upheld the complaint, which in my view involved a serious breach of the rules involving significant public funds.

3.38 The Committee agreed with my findings. But they noted that the Department of Resources had twice given express approval to the Members' arrangements, which they regarded as a mitigating factor. They also noted the lack of any evidence that the Members intended to procure for themselves a personal benefit, and the very difficult circumstances which were beyond the Members' control. They considered that it would not be fair to ask for repayment in full, and recommended that the Members repay a total of £1,500.

3.39 I submitted three memoranda during the year concerning arrangements which Members had made for others to use the homes for which they claimed against their Additional Costs Allowance. There was at the time no rule which set out who might and might not live in a Member's home for which they claimed against parliamentary allowances. But the rules did not allow Members to claim for "*the living costs of anyone other than yourself*".

3.40 In March 2009 I opened an inquiry into a complaint that a Member had claimed against parliamentary allowances for costs which were not wholly, exclusively and necessarily incurred for the purpose of performing his parliamentary duties. The complainant forwarded a newspaper article alleging that the Member had claimed for the costs of a home in which his parents lived.³⁷

3.41 Upon inquiry I found that during the six financial years from 2002-03, the Member had claimed over £75,500 in total against this allowance while spending a maximum of 66 nights a year in the performance of his parliamentary duties in this property where his parents lived full time in their only home. I considered that the Member was in breach of the rules in not offsetting the living costs of his parents in his claims against this allowance. I therefore upheld this element of the complaint. I noted that the Member was also in breach of the rules in over-claiming for mortgage interest and council tax.

3.42 The evidence sent by the complainant noted that Member's main home was eleven miles from his constituency and three miles from Parliament. I had therefore to consider whether the location of this second home was within the rules of the House. I found nothing in the House's rules to prevent such a Member whose main home was within 20 miles of his or her constituency boundary from claiming against parliamentary allowances

³⁷ Tenth Report of Session 2008-09, HC 1070

in respect of a second home in their constituency, provided that their second home was needed in order to perform their parliamentary duties. I did not uphold this element of the complaint.

3.43 The Committee agreed with my conclusions. They noted in mitigation that the Member had consistently claimed less against his allowance than had most other Members and that he relied on what they accepted was mistaken advice obtained from the Fees Office, albeit in 1998-9. They concluded that the Member should not have claimed more than half the running costs of the property, and they recommended that he apologise to the House and repay the sum of £13,837, which they calculated was the excess claimed since 2004, the first year for which reliable information was available. (The Member had already repaid over £3,000 in respect of over-claims for his mortgage and for council tax, which he discovered after I had opened my inquiry.)

3.44 My two other inquiries concerning the use of Members' designated second homes by others both involved Members elected in 2005. In 2003, well before he was elected to Parliament, one of these Members had purchased a house in his constituency.³⁸ He had allowed his political agent to stay overnight there free of charge. The arrangement continued after he was elected to the House, when he designated this property as his main home. This presented no problem in terms of the rules of the House until November 2005 when the Member designated this property as his second home and began to claim against his parliamentary allowances for its costs. The Member's agent stayed overnight in the house for some three nights a week from November 2005 to June 2007 while the Member was claiming its costs from his parliamentary allowances. I considered that he was in breach of the rules after November 2005 in not reducing his claims on the Additional Costs Allowance to take full account of his agent's living costs. As a result, public funds provided a benefit to his agent. While I accepted that he received no real financial benefit from the arrangement and that the error was caused by his misinterpretation of the rules, I considered this a serious matter. The evidence did not however sustain the complainant's allegation that the Member had diverted public money for the benefit of his political party by providing rent-free accommodation to his agent since the agent could otherwise have been provided with accommodation rent-free elsewhere in the constituency.

3.45 During my investigations of complaints about Members' claims against their allowances I frequently need to seek evidence from the House authorities in the Department of Resources. On occasions, while assembling that evidence, the Department has noted irregularities in Member's claims, ancillary to the complaint under inquiry, which they have then brought to my attention. On this occasion the Department noted that the Member had wrongly claimed for utilities, council tax, telephone and food in respect of his constituency property from May to October 2005, when it was nominated as his main home. I drew this breach of the rules to the Member's attention and he repaid the entire sum thus wrongly claimed.

3.46 The Committee agreed with me that this Member had committed two breaches of the rules, firstly by mistakenly claiming ACA for this property when it was designated the main home, and secondly by providing a benefit in the form of free accommodation for his constituency agent. The Member fully accepted, in the light of the Committee's Tenth

³⁸ Fourth Report of Session 2009-10, HC 157

Report of Session 2008-09 that he was in breach of the rules of the House.³⁹ He apologised unreservedly, and offered to pay back half the costs he had claimed from his Additional Costs Allowance from November 2005 to June 2007. The Committee welcomed this, and recommended that he repay £9,559.

3.47 My third memorandum concerning the use of a Member's designated second home by others related to its use by the Member's adult daughter. The Member had bought a flat in her constituency shortly after the 2005 General Election.⁴⁰ The complainant alleged that she had breached the rules of the House in claiming for the costs of this property when her main home was only twenty miles from the constituency boundary; in allowing her adult daughter to live there rent free; in claiming second home discount on her council tax even though it was her main home, and in her claims for food.

3.48 In respect of the second allegation, I found that the Member's daughter had begun to stay regularly in the flat in September 2006 at her mother's invitation, initially for three or four nights a week, later falling to one or two nights a week. She had stayed on average more nights at the flat than the Member herself, and did not contribute to the costs incurred. I considered that this amounted to a substantial, regular and sustained usage of the flat by her. I noted that while the rules had been interpreted as permitting a Member's partner and children to share the second home with them, this could not be expected to apply regardless of age. The Member's daughter was then an adult in full time employment. She had provided her mother with emotional (and some practical) support, which in my judgement was a personal benefit to the Member.

3.49 I concluded that the Member was in breach of the rules in permitting her adult daughter to stay regularly over a period of two years and nine months in her parliamentary funded flat, without reflecting her full living costs in the claims which she made. In my view the test was not whether additional costs were incurred but whether the Member's claims covered the living costs of another person. I therefore upheld this part of the complaint, while noting that the Member's responsibility was mitigated by advice she might have received from the House authorities. I also upheld the element of the complaint concerning the Member's claims for food. She had claimed over £3,000 a year for food from 2005-06 to 2007-08 inclusive, believing that it was permissible for her to claim the costs of all food not taken at her main home, when she should have claimed only for food associated with her overnight stays in her second home. I considered that this breach was at the less serious end of the spectrum. I did not uphold the element of the complaint which concerned the Member's council tax claims, nor that concerning the location of the Member's main and second home. I concluded, as I had in an earlier case,⁴¹ that it was consistent with the rules at the time for the Member to have a second home in her constituency even if their designated main home was within 20 miles of the constituency boundary.

3.50 The Committee agreed with my findings and recommended that the Member repay £2,100 in respect of her food claims, and an additional £5,000 in respect of the period when her adult daughter stayed in her second home, reduced by £1,500 to reflect evidence that

³⁹ Tenth Report of Session 2008-09, HC 1070

⁴⁰ Eighth Report of Session 2009-10, HC 353

⁴¹ Tenth Report of Session 2008-09, HC 1070

she had acted in accordance with the advice she had received from the Fees Office. They also invited her to apologise in writing to the House.

3.51 I also submitted a memorandum on a complaint that a Member had claimed against the Additional Costs Allowance for a property which since 2006 he had rented from a company in which he and his wife had an interest.⁴² The rental had continued even though the House authorities had told the Member in April 2006 and again in June 2006 that the arrangement was against the rules. They had required him to leave the flat by March 2007. The Member took no significant action on the decision until February 2008. I considered that while this rental arrangement was within the rules when it began in February 2006, once the Member had received the decision of the House authorities in April 2006 that he should move by March 2007, then he should either have accepted or appealed against this decision. I concluded that the Member was in breach of the rules of the House from March 2007 until he moved from his flat in April 2009 because he did not act on the Department's clear instructions. I therefore upheld the complaint, which I considered to be a serious matter.

3.52 In the course of my inquiry I had also found that the company concerned had not charged the Member for a range of costs, such as utilities and council tax, which under the terms of the lease fell to be paid by him. The benefit exceeded 1% of the Member's salary in each of the main calendar years of the arrangement—2006, 2007 and 2008. I therefore concluded that the rental arrangement provided the Member with a registrable benefit which he had not registered in the Register of Members' Financial Interests.

3.53 The Committee recommended that the Member apologise unequivocally in writing and repay £1,500 for his breach of the rules in his rental arrangement. They noted that the Fees Office's failure to enforce its decision, and the fact that the Member gained no financial advantage, were mitigating factors. But for these they would have recommended a more severe sanction. The Committee also noted that the Member had accepted my findings on his failure to register a benefit, and that he had made an appropriate late entry in the Register. They regarded the breach of the registration rules as having been rectified.

3.54 I come now to my final memorandum published during the year, which concerned two allegations against the same Member.⁴³ I received no formal complaint about these allegations, but the Member himself asked me to inquire into them. In accordance with the procedure set out in the Guide to the Rules, I therefore consulted the Committee on Standards and Privileges who agreed to my instituting this inquiry.⁴⁴

3.55 The first allegation was that the Member had claimed against his allowances for the costs of his second home which were not wholly, exclusively and necessarily incurred for the purpose of performing his parliamentary duties. Upon inquiry I found that over the period 1 April 2004 to 30 November 2009, he had received just under £65,000 from his second home allowance. Between April 2004 and July 2005 the Member's designated second home was a flat in London; during the remainder of the period, it was a property

⁴² Fifth Report of Session 2009-10, HC 238

⁴³ Twelfth Report of Session 2009-10, HC 509

⁴⁴ The Code of Conduct together with the Guide to the Rules relating to the conduct of Members, February 2009, HC 735, paragraph 104

in his constituency, in which he did not stay overnight other than on the rarest of occasions. I concluded that he was in breach of the rules of the House from July 2005 to March 2009 in claiming the allowance for this constituency property in which, with the most occasional exception, he did not stay overnight for the purpose of performing his parliamentary duties. I considered this a serious misjudgement.

3.56 In the course of my inquiry, I considered also whether the Member was within the rules of the House when he made claims for the cost of his London flat in 2004-05. This was not part of the original allegations, but since the Member in his evidence had reported to me that he had taken on the rent of this flat at a time when his domestic circumstances meant that he could no longer live in his designated main home, I thought it right to inquire into the change of designation. I found that during this period he ought to have changed the designation of his main home from his family home to his constituency property, and that he was in breach of the rules of the House in not doing so. I had however no evidence that such a change would have had any material effect on the claims he made against his parliamentary allowances, and I considered this a less serious breach.

3.57 The Committee agreed with my conclusions and recommended that the Member apologise to the House in writing and repay £38,000 of the allowances he had claimed for his constituency home.⁴⁵

3.58 During the year I employed the rectification procedure to resolve one complaint concerning claims made against the Additional Costs Allowance for a Member's second home in his constituency. The Member accepted that certain of his claims were inadvertently in breach of the rules. He apologised and made the necessary repayment.

3.59 I did not uphold four complaints about this allowance. Two related to Members' designation of their first and second homes under the allowance. In one case the Member was alleged to have wrongly identified his constituency home as his main home. I considered that it was reasonable and consistent with a proper understanding of the rules for him to have acted as he did. In the second case it was alleged that the Member had wrongly claimed against parliamentary allowances for the interest on a mortgage which he did not hold, which was in the name of his wife. After inquiry I found the Department of Resources had exercised their discretion under the rules at the time to allow him to claim. This was the home in which he lived with his wife in order to fulfil his parliamentary duties, and there was no suggestion that the Member did not live in the property and incur expenses by so doing in the performance of his parliamentary duties. I therefore did not uphold this complaint. I also did not uphold two complaints about Members' claims for building work and one about claims for food costs. In each of these cases I found, upon inquiry, no evidence that the claims did not satisfy the rules of the House.

⁴⁵ I describe at paragraphs 3.72 to 3.75 my inquiry into the second allegation against this Member, which I reported in the same memorandum.

Communications Allowance and use of House of Commons stationery and prepaid envelopes

3.60 The purpose of the Communications Allowance, introduced in 2007, was to enable Members to communicate proactively with their constituents. This allowance was known after 1 April 2009 as Communications Expenditure. Members were able to draw on the allowance to fund, for example websites, newsletters or annual reports to their constituents. In addition, each Member received an allocation of House of Commons stationery, which included pre-paid envelopes bearing the crowned portcullis. There are strict rules governing the use of this allowance and of House of Commons stationery. These were at the time set out in the 2009 Green Book as well as in a booklet *The Communications Allowance and the use of House stationery* issued in 2007.

3.61 During the year I resolved eighteen complaints concerning the use of the Communications Allowance or the use of House of Commons stationery and pre-paid envelopes. I upheld twelve of these complaints, submitting memoranda to the Committee on two of them. I did not uphold the remaining six complaints.

3.62 Both the memoranda which I submitted about Members' communications concerned complaints that the Members had used parliamentary funded reports to promote a political party and people seeking election, and had done so during the closed period for the June 2009 local authority elections. The first case involved a report funded from the Member's 2008-09 Communications Allowance but distributed just after amended rules came into force on 1 April 2009.⁴⁶ The complainant drew attention to the Member's use of a number of photographs of candidates from his political party who were standing for election in June 2009.

3.63 I found that this report contained 21 photographs on its first three pages, showing the Member with eight other elected representatives, all from the same party as the Member. Seven of these stood in the June 2009 local elections. The Member told me that the Department had advised him that it was permissible for him to include in his newsletter photographs of himself with other elected representatives. But neither he nor the Department had a record of this conversation.

3.64 After 1 April 2009 the rules for the Communications Expenditure provided that Members must take care when using photographs not to promote other elected office holders or candidates for office. They also required Members to submit such publications to the Department for approval. But as this Member's report was prepared before the new rules were introduced, I took the view that the rules which applied were those in force until 31 March 2009. These did not specifically mention the use of photographs but they made clear that newsletters funded from parliamentary allowances must not promote or campaign on behalf of a person seeking election, or have the intention of promoting the interests of any particular party or organisation supported by the Member. I considered that the newsletter had the effect of promoting the interests of the Member's political party, and that his use of these photographs was in breach of these rules.

⁴⁶ First Report of Session 2009-10, HC 66

3.65 The Committee agreed with me that this Member's use of photographs was on such a scale as to taint the whole newsletter. They also took the view that he was unwise to have included in the newsletter a photograph of himself with his party leader, and that he should have sought full advice about his proposed use of photographs by submitting the newsletter to the Department of Resources for approval, as was open to him (although not required) at the time. They recommended that he repay £1,945, which represented half the cost of printing and distributing his newsletter.

3.66 The second newsletter was also not submitted to the Department of Resources in advance of publication. The complaint concerned an article which described the work of an elected mayor, who would shortly be expected to stand for re-election, and his plan for building new homes.⁴⁷ The complainant also alleged that the newsletter had been distributed outside the Member's parliamentary constituency, along with a magazine from the local council, to the whole of two neighbouring local authority electoral wards which were to be added to the Member's constituency at the forthcoming General Election.

3.67 During the course of my inquiry the Department of Resources and I both identified further articles in the newsletter which raised questions about whether parliamentary funding was appropriate. The complainant had not drawn these to my attention. I identified an article about hospital waiting times which appeared to use statistics selectively and thus to compare one administration unfavourably with another, in breach of the rules for such publications. The Department expressed concern about an article on the Government's response to the financial crisis, which the Member applauded, which they considered said little about the Member's own activities on the issue. The Director of Operations told me that he was confident that had they been asked to advise on the drafts, the Department would have asked for a number of changes to the text of the newsletter.

3.68 Upon inquiry I was satisfied that this Member had no intention of distributing his newsletter outside his current constituency. There was no evidence that it went to the two local authority wards, or indeed outside his constituency at all. Nor was there evidence that it had been distributed along with other material. I did not, therefore, uphold this part of the complaint. I found however that the Member was in breach of the rules in including the two articles concerning the mayor and hospital waiting times which in my view constituted party political material. On balance I concluded that the article on the Government's response to the financial crisis provided sufficient information about the Member's own activities for it not to fall foul of the rule against the inclusion of party political material. Nevertheless, in my judgement the Member's decision not to seek the advice of the House authorities had led him into including two articles which had no place in a parliamentary-funded publication. It was a misjudgement which was, in my view, significant but not at the most serious level for this sort of publication. The Member apologised in respect of the article about hospital waiting times which I drew to his attention but did not accept my conclusion about the original complaint. The Committee recommended that he apologise in writing for the breach of the rules which was the subject of the original complaint and that he repay the sum of £500 in recognition of the two breaches.

⁴⁷ Third Report of Session 2009-10, HC 110

3.69 I resolved ten complaints concerning Members' communications by means of the rectification procedure available to me under Standing Order No 150.⁴⁸ In four cases, which involved the use of pre-paid House of Commons envelopes, and on occasions House of Commons stationery, for unsolicited or inappropriate correspondence, contrary to the rules of the House, the Members concerned repaid the sums involved. In three similar cases, but where the content of the correspondence meant that it could properly have been funded from the Member's Communications Allowance (or Communications Expenditure) account, the Members transferred the costs to that account. In two further cases involving minor breaches of the rules the Members took action within their offices to avoid a recurrence but no repayment was called for. And in one final case, although I had found that the original complaint was not substantiated, in the course of my inquiry I had discovered that the Member had accidentally claimed twice against his allowances for the printing costs of his parliamentary newsletter. When made aware of this the Member promptly secured a refund and repaid the costs to the House. I considered the matter rectified on that basis and closed the complaint.

3.70 Of the five complaints which I considered about the use of the Communications Allowance and did not uphold, two concerned allegations of party political content in common form letters sent by different Members which encouraged the recipients to apply for a postal vote. The complainants both alleged that the Members had targeted these letters for political purposes. I found however that the rules of the House permitted Members to write to constituents about postal voting. The House of Commons authorities had agreed in advance the content of the letters, and there was no evidence the letters were targeted for party political purposes. I therefore concluded that these letters constituted an appropriate use of the parliamentary allowances and I therefore did not uphold these complaints.

3.71 I did not uphold the third complaint, which concerned a newspaper advertisement with party political content which bore an imprint saying that it was funded from parliamentary allowances. This was because the Member had not submitted to the House authorities any claim for reimbursement of the costs of the advertisement. He had not therefore breached any of the rules. The fourth complaint was that a Member had distributed his 2009 Annual Report outside his constituency. Upon inquiry I found that he had not authorised or intended such distribution. He was not aware that any copies of the report had been distributed outside his constituency, although he could not guarantee that this had not happened by mistake. I concluded that he had used his best endeavours to keep the distribution within his constituency boundary and that any overspill was likely to have been through an error in distribution. On that basis I did not uphold the complaint. The fifth complaint concerned what appeared to be a circular letter apparently funded from the Communications Allowance and sent in House of Commons pre-paid envelopes. I found that when the Member used the envelopes in this way, he was responding in fact to a petition or to other communications he had received from his constituents. He did not draw on the Communications Allowance for the letters. He was therefore not in breach of the rules.

⁴⁸ See paragraphs 3.14-16.

Incidental Expenses Provision and Staffing Allowance

3.72 During the year I considered one complaint about the use of a Member's Staffing Allowance and eight complaints about the use of the Incidental Expenses Provision, which was available to meet the costs of running and equipping Members' offices in support of their parliamentary duties. I upheld four of these complaints.

3.73 The allegation concerning the use of Staffing Allowance was referred for inquiry by the Member himself. The allegation was that he had used this allowance for the furtherance of his external employment and that he had failed fully to register that employment. It concerned his appointment as Chair of an industry body from 2005 to 2008. It was alleged that this role had been supported by his parliamentary-funded staff, and that he had failed adequately to register this employment. At the same time, the Member had also asked me to inquire into an allegation that he had claimed against his Additional Costs Allowance for costs which were not wholly, exclusively and necessarily incurred in the course of his parliamentary duties.⁴⁹ After consulting the Committee on Standards and Privileges, as I am required to do, I opened an inquiry into both of these matters.⁵⁰

3.74 I found that the arrangements the Member had made with the industry body did not lead to anything other than some minor incidental support from his parliamentary staff. I did not therefore uphold this allegation against him. But because the work he did for the organisation was related to his position as an MP, the Member had been required to register both his employment and his remuneration band, and to lodge with my office the necessary agreement for services, which had to include an undertaking that he would not be asked to engage in advocacy on behalf of the employer.⁵¹ I found that although the Member had registered both his employment and his remuneration, he had not submitted an agreement for services, which was required by the Register of Members' Financial Interests. While there was no suggestion that he had in fact engaged in advocacy, I considered that this omission represented a serious breach of the registration rules, and I upheld this element of the allegations against him. I reported to the Committee my findings on these allegations together with those relating to his use of the Additional Costs Allowance.

3.75 The Committee agreed that the Member's staffing arrangements for this work were within the rules, but they concluded that he had deliberately breached the rules on registration. They recommended that he apologise to the House in writing.

3.76 I upheld three of the seven complaints I considered about Members' use of the Incidental Expenses Provision, and I was able to resolve these by means of the rectification procedure. Each of these cases involved claims which were outside the rules at the time, but had not been challenged by the House authorities. The Members each apologised for their breaches of the rules and repaid the sums which they should not have claimed. I considered this a satisfactory resolution of these complaints. I therefore closed them on this basis.

⁴⁹ Twelfth Report of Session 2009-10, HC509. See also paragraphs 3.54-3.57

⁵⁰ The Code of Conduct together with the Guide to the Rules relating to the conduct of Members, February 2009, HC 735, paragraph 104

⁵¹ Twelfth Report of Session 2009-10, HC 509

3.77 I did not uphold the remaining five complaints about this allowance. I discontinued one inquiry into constituency office premises costs.⁵² Of the remaining complaints, two involved the costs of constituency office premises, one involved the purchase of IT hardware and software and one the commissioning and purchase of legal advice. Upon inquiry I found no evidence that these claims did not satisfy the rules of the House at the time.

Other matters

3.78 Finally, during the year I submitted to the Committee one memorandum which did not relate directly to the use of Members' allowances. It concerned six Members who had designated second homes in apartments which they rented in the Dolphin Square estate in Westminster.⁵³ They had claimed against parliamentary allowances for some or all of the rent of these properties. The Members each asked me to inquire into the propriety of their decisions to accept money in 2006 from the new owners of the estate. This was to buy out certain rights as tenants of the flats. Again, I consulted the Committee who agreed that I should undertake these inquiries.

3.79 I found that the Members had each accepted sums of money in return for giving up their protected tenancies, or for giving up extended succession rights for members of their families. I concluded that the sums they had received under these arrangements, while not themselves claims on parliamentary allowances, resulted from the payments made to them from the public purse. I took the view that the public purse should have benefited from the payments and that Members who accepted the payments and did not pass them on to the House authorities were in breach of the Code of Conduct because this had the effect of putting their personal interest above the public interest. In my opinion, the four Members who had accepted the principal sum on offer to buy out their protected tenancies had made a serious misjudgement, while the two Members who had accepted the smaller sums in order to buy out family succession rights had made a lesser misjudgement.

3.80 The Committee recommended that the four Members who had accepted the principal sum should repay between one quarter and one half of the money they had received, after deduction of any capital gains tax paid. The Committee recommended no further action in the cases of the two Members who had refused that offer, but who had accepted smaller sums to give up their family succession rights.

Registration and Declaration of interests

3.81 During the year I inquired into a complaint concerning a Member's alleged failure to record in the Register of Members' Interests all the family members who worked for him and who allegedly received payment from parliamentary allowances. The requirement to do so came into force on 1 August 2008. I found that the Member had not paid either of his children since that date. I therefore did not uphold this complaint.

3.82 I have described above my memorandum to the Committee concerning a Member's use of the staffing allowance for his external employment and his registration of that

⁵² See paragraph 3.85

⁵³ Eleventh Report of Session 2009-10, HC 491

employment.⁵⁴ In addition, during the course of two of my inquiries on unrelated matters, shortcomings in the registration of interests came to light. I reported on these in my memoranda to the Committee on Standards and Privileges.^{55 56}

Cases carried forward

3.83 At the end of the year I carried forward to 2010-11 25 complaints and allegations which were under active inquiry. Eleven of these concerned matters which I had accepted for inquiry in the last fortnight of March 2010.

3.84 Four further inquiries remained suspended at the end of the year following notification of possible police inquiries. In accordance with the procedures agreed with the Commissioner of the Metropolitan Police and the Chairman of the Committee on Standards and Privileges in 2008,⁵⁷ if I am informed by the police during my inquiries that they are considering initiating a criminal investigation into the matter, I would normally inform the Committee on Standards and Privileges. The Committee in turn would normally expect me to suspend my inquiries until the question of possible criminal proceedings had been resolved. I therefore suspended my inquiries in these four cases. In May 2010 the police notified me that they were no longer considering criminal inquiries in respect of one former Member, which enabled me to resume work on that inquiry. In addition, in March 2010 I was able on medical advice to resume my work on one inquiry which I had earlier suspended (also on medical advice).

3.85 During the year I also discontinued my work on one further complaint. Under the procedures agreed by the House, I do not accept anonymous complaints.⁵⁸ When the correspondent named in this case confirmed that he had not in fact submitted the complaint which had been sent to me apparently bearing his signature, I considered that it would be wrong to continue my inquiry on the basis of that complaint. I therefore informed the Member that I did not intend to pursue my inquiry.

Complaints not inquired into

3.86 It is in the nature of most complaints systems that a large number of the complaints received raise matters which are not proceeded with. That has been the position with complaints sent to the Commissioner since this office was established, and this year has been no exception. The figures for complaints not accepted vary from year to year. This year, as a result of the press coverage on expenses and references in the media to my office, I received a large number of complaints on a wide range of matters which, for the reasons explained below, I could not accept for inquiry. Of the complaints I received in 2009-10, 105 fell outside my remit, for example because they concerned what might broadly be called customer service issues, for example about a Member's decision not to support a particular constituency issue or campaign, about time taken to respond to constituents'

⁵⁴ Twelfth Report of Session 2009-10, HC509. See also paragraphs 3.73 -3.75

⁵⁵ Fifth Report of Session 2009-10, HC 238.

⁵⁶ Seventh Report of Session 2-009-10, HC 310

⁵⁷ Eighth Report of Session 2007-08: The Complaints System and the Criminal Law, HC 523

⁵⁸ The Code of Conduct together with the Guide to the Rules relating to the Conduct of Members, Session 2009-10, HC 735, paragraph 105.

letters, or about the way the Member had handled their case including whether or not the Member had responded to correspondence. Other complaints concerned the actions of Members in their purely private or personal lives, or the views or opinions expressed by a Member, or the actions of Government Ministers. All these matters fall outside my remit.

3.87 It is understandable that many complainants are not familiar with the rules of the House. I therefore receive a significant number of complaints where the allegations, if substantiated, would not constitute a breach of the rules. There were 76 such complaints last year. Some of these involved misunderstandings about the provisions in the Green Book on Members' allowances, which were complex, or about the requirements of the House in relation to apparent conflicts of interest. The House does not forbid Members undertaking paid employment outside the House but it does require them to register and declare those interests openly.

3.88 In 53 cases complainants wrote making allegations that Members had breached the rules of the House, without providing the evidence to substantiate their claim. My office replied reminding complainants that my remit is to consider where the complainant has provided sufficient evidence to justify an inquiry into whether a particular Member has breached the rules of the House.

3.89 The rules established for the Commissioner by the House provide that I would not normally regard a complaint founded upon no more than a newspaper story or television report as a substantiated allegation.⁵⁹ Nevertheless, where the complainant provides a media report which sets out sufficient evidence to justify my making an inquiry, then I will institute that inquiry. In cases where the complainant does not furnish me with the media report, or it does not provide sufficient evidence to substantiate the allegation, I am not able to institute an investigation.

Frivolous or vexatious complaints

3.90 If I receive a complaint which appears to be frivolous or vexatious I will draw this to the attention of the Committee on Standards and Privileges. I am pleased to say that I have not needed to consult the Committee in this way in 2009-10.

Complaints about other Registers

3.91 During the year I received five complaints relating to the registration of journalists' interests and nine relating to All-Party Groups. I describe these in Chapter 4 of this report.

Trends in complaints from 2004 to 2010

3.92 Table 3 shows that in 2009-10 I received more formal complaints than previously recorded, and I also inquired into an exceptionally high number of complaints. This was due to the increase in complaints about Members' use of their allowances. There was also an increase in the number of cases resolved, whether through memoranda to the Committee or otherwise. It is also possible to see a predictable increase in the use of the

⁵⁹ Select Committee on Members' Interests, First Report of Session 1992-93, HC 383, paragraph 4; and The Code of Conduct together with the Guide to the Rules relating to the conduct of Members, Session 2009-10, HC 735, paragraph 104.

rectification procedure since 2005-06 when Standing Order No. 150 was amended to enable the Commissioner to make use of it in cases of less serious misuse of parliamentary allowances, facilities and services. As explained earlier in this chapter, I have employed this means of resolving cases which were at the less serious end of the spectrum.

Table 3: Complaints received from 2005-06 to 2009-10

	2005-06	2006-07	2007-08	2008-09	2009-10
1. Specific complaints against a named Member	129	176	226	192	317
2. Complaints subject of inquiry	23	81 ⁶⁰	71	54	80
3. Complaints not inquired into					
a) because complaint fell outside remit	105	87	94	83	105
b) because complaint did not concern a breach of the rules				32	76
c) because insufficient supporting evidence was provided				27	53
d) because a similar complaint had already been accepted				18	11
<i>Total complaints not inquired into⁶¹</i>	106	95	155	160	245
4. Complaints resolved					
a) upheld by means of rectification procedure	0	10	7	16	14
b) upheld by means of a memorandum to Committee on Standards and Privileges ⁶²	0	38	15	17	20
c) Complaints not upheld (where no memorandum was submitted to the Committee)	15	11	29	13	16
d) Complaints not upheld (where a memorandum was submitted to the Committee)	0	15	0	3	1
<i>Total complaints resolved</i>	15	74	51	46	51

⁶⁰ Fifty of these related to a series of complaints by the same two Members about dining clubs.

⁶¹ Before 2008-09 the office did not maintain detailed statistics on the reasons why complaints were not inquired into.

⁶² In 2005-06 the Commissioner submitted a total of three memoranda to the Committee; in 2006-07 ten; in 2007-08 eight; in 2008-09 twelve and in 2009-10 thirteen.

4 Registers of interests for Members, Members' Secretaries and Research Assistants, Journalists, and All-Party Groups

Introduction

4.1 The Commissioner's office is responsible for the compilation of the four registers of interests required by the House, namely the Register of Members' Financial Interests, the Register of Interests of Members' Secretaries and Research Assistants (commonly called the Members' Staff Register), the Register of Journalists' Interests and the Register of All-Party Groups.⁶³ The registers provide a publicly available record of the interests which might be thought to influence the actions of a Member in his or her parliamentary capacity, or the actions of other holders of a parliamentary pass, to enable readers to make their own assessment of their significance.

4.2 All four registers are published electronically on the parliamentary website. The Members' Register is also published broadly every year in hard copy, every entry appearing in at least one printed edition to ensure the availability of a complete historical record of every Member's entries. Print-outs of the current edition of each register are available for public inspection, by appointment, and arrangements can be made to see such earlier editions of the Register of Members' Financial Interests as do not appear on the parliamentary webpages.

Register of Members' Financial Interests

4.3 The main purpose of the Register of Members' Financial Interests, as amended on 27 March 2008, is:

“To provide information of any financial 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, and such other information as the House may from time to time require.”⁶⁴

4.4 The Rules which accompany the Code of Conduct for Members of Parliament lay down the categories of interest which are to be declared. These categories are essentially for administrative convenience. As described in my last report, on 30 April 2009 the House resolved to require that Members with earnings registered under Categories 1

⁶³ Further details about the three last-named Registers are available in Appendix 2.

⁶⁴ HC Deb 27 March 2008, col 382-394

(Directorships), 2 (Remunerated employment, office, profession etc) and 3 (Clients) should register the exact amount of each payment, the nature of the work done and the time spent, and except where legal or established privilege applied, and the name and address of the person or organisation making the payment. These changes, together with the changes which I described in my last Report, mainly relating to requirements under the Political Parties Elections and Referendums Act 2000 (PPERA), came into force on 1 July 2009. The changes relating to requirements under PERPA were the reduction of the time limit for registration from three months to one, the requirement for precise information about donors and the introduction of a new category for the registration of loans and other regulated transactions.

4.5 My office has continued to publish electronic editions of the Register at fortnightly intervals when the House was sitting and additionally one during the summer recess. A printed edition was published in February 2010, when the opportunity was taken to remove from the Register entries which were time-expired or otherwise no longer required. The impact of the new rules, particularly regarding the registration of payments is reflected in the volume of the Register. The June 2008 edition of the Register comprised 147 pages, and the February 2010 Register 256 pages, much of the increase being due to the new requirement. For example a Member being paid monthly now has to make twelve entries where previously one would have sufficed.

Complaints relating to the Register of Members' Financial Interests

4.6 In Section Three of this Annual Report I have described my inquiries into complaints and allegations against Members. These included two allegations that Members had failed to register interests at the appropriate time, as required by paragraph 16 of the Code of Conduct. I did not uphold one of these. In addition, in the course of two further inquiries, both relating to other matters, I received evidence that the Members concerned had not fulfilled all their obligations to register relevant financial interests. Once these matters had been brought to my attention, I considered it right to include them in my inquiries and to report on them in the memoranda I submitted to the Committee on Standards and Privileges.⁶⁵

Register of Interests of Members' Secretaries and Research Assistants

4.7 Those holding a parliamentary pass as a Member's secretary or research assistant are required to record their details in the Register of Members' Secretaries and Research Assistants. Members' staff who are passholders are required to register any other occupation from which they receive income exceeding half of one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation is in any way advantaged by the privileged access to Parliament afforded by their pass. They also have to register any tangible gift (e.g. glassware) and any other benefit (eg hospitality, services or facilities provided) which they receive, if the value of the gift or benefit exceeds that sum and the gift or benefit relates in any way to their work in Parliament.

⁶⁵ See paragraphs 3.81 to 3.82 and the following memoranda: Twelfth Report of Session 2009-10, HC 509; Seventh Report of Session 2008-09, HC 310; Fifth Report of Session 2009-10, HC 238.

4.8 The number of registered staff (as at 31 March 2010) was 1,611, compared with 1,661 on 31 March 2009. The number of staff with registered interests was 346 on 31 March 2010 compared with 395 on 31 March 2009. At any given time there are approximately 1500 staff on the Register, with turnover of about 33% in a typical year. Those with registered interests are a small proportion of the total number of Member's staff.

Register of Journalists

4.9 Those holding a pass as a lobby journalist accredited to the Parliamentary Press Gallery or for parliamentary broadcasting are required to record in this Register any occupation or employment, apart from that with their sponsoring organisation, from which they receive income exceeding one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.

4.10 The number of registered journalists (as at 31 March 2010) was 413, compared with 377 on 31 March 2009. The number of journalists with registered interests was 66 on 31 March 2010, compared with 65 on 31 March 2009. At any given time there are approximately 400 journalists on the Register, with a turnover of about 20% in a typical year.

Register of All-Party Groups

4.11 The membership of All-Party Groups consists mainly of backbench Members of the House of Commons and Members of the House of Lords but may also include Ministers and non-parliamentarians. There are two types of group: subject groups (relating to a particular topic, e.g. forestry) and country groups (relating to a particular country or region).

4.12 Inclusion on the Register of All-Party Groups is compulsory for any group which includes Members of the House of Commons from more than one Party, if it has at least one officer who is from the Commons. Such groups are required to register the group's title and the names of its officers. Financial or material benefits received by the group as a whole must also be registered, where the group receives during a calendar year one or more benefits from the same source whose total value is £1,000 or more. Lastly, the group must register the name and paid employment or occupation outside Parliament of any staff servicing the group who hold a parliamentary pass, if that occupation or employment is advantaged by the passholder's privileged access to Parliament.

4.13 The number of registered groups, as at 31 March 2010, was 593 (the highest number ever recorded), compared with the 556 on 31 March 2009. On 31 March 2010 there were 145 country groups and 448 subject groups; compared with 140 country groups and 416 subject groups on 31 March 2009. The number of groups with registered financial or material benefits was 367 on 31 March 2010 compared with 310 on 31 March 2009.

Prospective changes to the rules on All-Party Groups

4.14 In its report on *All-Party Groups*⁶⁶ the Committee on Standards and Privileges recommended a number of amendments to the rules on APGs. The recommendations mainly sought to improve transparency about the sources of financial and material support provided to APGs. They also aimed to simplify the present regulatory arrangements and assist their enforcement by aligning the rules governing groups on the Register with the more demanding rules governing groups on the Approved List: any group not fulfilling these—for instance because it had insufficient Members—would cease to be registered.⁶⁷

4.15 The parliamentary timetable did not allow for the recommendations to be put to the House before the Dissolution. I hope that they will be taken forward in the new Parliament.

Complaints relating to Registers of Members' Secretaries and Research Assistants, Journalists and All-Party Groups

4.16 Complaints alleging that a Member's secretary or researcher, a journalist or an all-party group has breached the rules governing the Registers should in the first instance be sent to the Registrar of Members' Financial Interests. It is the practice that in serious cases the Commissioner may investigate and if necessary report to the Committee on Standards and Privileges in the same way as in respect of complaints against Members.

4.17 During the period covered by this report I received:

- Nine complaints about All-Party groups. Decisions about what is discussed at meetings and who (apart from MPs and Peers) may attend and speak at them are for the group's officers to decide. Eight complaints concerned the conduct of meetings by the same Group and one concerned access to a meeting. I therefore informed the complainants that these complaints fell outside my remit.
- Five complaints about five different journalists. Each complaint alleged a failure to register relevant employment. I upheld four of these, which were made by the same complainant. I determined that the rectification procedure should be applied to the register entries of three of the journalists concerned. (The fourth no longer held a House of Commons pass so was no longer required to register.) The three journalists still on the Register apologised, and had their amended entries entered in heavy type in the Register of Journalists, with a note to the effect that this was done following a complaint. The entries remain in this format for a year. On my recommendation the administrator of the Press Gallery at the Commons subsequently wrote to all parliamentary journalists to remind them of the rules on the registration of their financial interests.

Upon inquiry into the fifth complaint I found that the journalist had in fact notified my staff of the employment in question and that the failure was therefore on the part of my staff for omitting to register it. I consequently apologised to the

⁶⁶ Eighth Report of Session 2008-09, HC 920

⁶⁷ For details of the Approved List see Paragraph 7 of Appendix 2

journalist and informed the complainant of my findings. I did not uphold this complaint.

5 Resourcing the work

5.1 The table below shows the cost of running this office in 2009-10 compared to previous years.

Table 4: Costs of running the Commissioner's office

	2004-05 £	2005-06 £	2006-07 £	2007-08 £	2008-09 £	2009-10 £
Staffing etc	298,869	308,121	379,609	419,816	494,005	578,300
Other running costs	3,964	8,713	6,939	5,881	5,850	10,256
Total	302,833	316,834	386,548	425,697	499,855	588,556

5.2 The rise in staffing costs was due to the increase in the workload of my office, both in relation to complaints and in relation to registration. The House of Commons Commission gave an assurance in 2002 that the Commissioner would be provided with the resources he needed to do his job. In fulfilment of this undertaking, in the light of the large number of complaints accepted for inquiry in June and July 2009, the House authorities enabled me to recruit two members of staff, on a part-time basis, to support me in my complaints work, together with a modest increase in support staff. These appointments are on a time limited basis and are kept under regular review. I would hope to be able to reduce my resource requirement during the course of the year. I also benefited from the assistance of other members of the Department of Chamber and Committee Services who made themselves available on a temporary basis during the summer of 2009.

5.3 The changes to the registration requirements implemented in July 2009 resulted in a considerable increase in the number and complexity of register entries. To give one example, a Member who would previously have registered only that he or she worked for a company has now, assuming he or she is paid monthly, to enter each month the exact amount received and the number of hours worked. The increased complexity of the rules has also resulted in an increase in the requests for advice from Members. An additional factor was the unusually high expected turnover of Members at the impending General Election which is making the work of compiling the first Register of the new Parliament more onerous than usual. In October 2009, therefore, an additional full-time member of staff was recruited on a time limited basis to assist with the Members' registration work and also to provide some assistance in respect of the other Registers. Again, the need for this post is kept under regular review.

5.4 I am very grateful to the House authorities and the Departmental colleagues for their prompt assistance.

5.5 The increase in other running costs is principally accounted for by the increased cost of publishing a longer Register of Members' Financial Interests and by the one-off cost of professional advice for one of my complaints inquiries.

6 Conclusion and forward look

The current financial year coincides with the first session of the new Parliament. This will be an opportunity for the House to establish the standards it intends to follow during the course of this Parliament. The most obvious changes in the new Parliament are the new arrangements for establishing the expenses and for paying the salaries and expenses of Members. This is now the responsibility of an independent statutory body, the Independent Parliamentary Standards Authority. I would hope that the implementation of the new arrangements can soon command the confidence both of Members of the House and of the general public. That confidence should be based on the transparency of the arrangements and on those arrangements fairly enabling all Members to fulfil their parliamentary duties in a way that best serves their constituents and their wider responsibilities and does so in a timely and cost efficient way.

I would hope too that, once I have concluded work on the complaints which I have necessarily carried over from the previous Parliament, the volume of complaints, particularly on expenses matters, will substantially diminish as people will be able to see more clearly what has been claimed and to have the confidence that the claims are in accordance with the Authority's expenses scheme. I remain ready, however, to consider matters referred to me from the Compliance Officer if he considers that those matters are relevant to my work, in particular if he considers there has been a significant breach of the Code of Conduct for Members of Parliament in relation to Members' expenses.

It is not possible to predict with confidence whether other concerns may arise in the course of the year. There are other requirements in the Code of Conduct in addition to abiding by the expenses regime. Members will need to ensure that they are familiar with the rules, for example, on registering, lobbying and advocacy to ensure that, in the rush of business in the first session of this Parliament, they do not breach those important provisions. I will remain ready to consider any well founded complaint that any Member has breached any of the provisions of the Code and its associated rules.

I have already provided oral briefing to Members of all parties on the Code of Conduct for Members of Parliament and its associated rules. I will report more fully on this in the next annual report. But I will continue through the year to look for opportunities to brief and guide Members on their obligations under the Code.

Finally, I hope later in the year, and with the agreement of the Committee on Standards and Privileges, to consult on the Code of Conduct for Members of Parliament and consider whether, in the light of the experience of the current Code, revisions should be made to that Code. I hope also for an opportunity to review my procedural notes which need to reflect the revised Guide to the Rules approved by the House in 2009 and other changes which may be needed to bring them up to date.

I look forward to reporting progress on my work to the newly appointed Committee on Standards and Privileges as the House moves through the early months of the new Parliament.

July 2010

John Lyon CB

Appendix 1: Standing Orders Nos 149 & 150, as amended by the House on 9 February 2009

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

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

(b) to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Financial Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; and to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; and

(c) to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to the committee's attention by the Commissioner; and to recommend any modifications to such code of conduct as may from time to time appear to be necessary.

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

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

(4) The committee shall have power to appoint subcommittees consisting of no more than seven Members, of whom three shall be a quorum, and to refer to such subcommittees any of the matters referred to the committee.

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

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

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

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

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

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

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

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

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

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

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

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

(i) the registration or declaration of interests, or

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

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

(3) No report shall be made by the Commissioner:

(a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

(b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable.

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

(5) An Investigatory Panel shall—

(a) consist of the Commissioner, who shall be Chairman of the Panel, and two assessors, one of whom shall be a legally qualified person appointed by the Commissioner and the other shall be a Member, who shall not be a member of the Committee on Standards and Privileges, appointed by the Speaker; and

(b) meet in private.

(6) The Commissioner—

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

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

(7) Any report that the Commissioner may have made to the Committee on Standards and Privileges in

relation to the complaint before the appointment of the Panel shall be made available to the Panel by the Committee.

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

(9) When the Panel has completed its proceedings—

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

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

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

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

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

Appendix 2: Note on Registers of interests for Members' Secretaries and Research Assistants, Journalists, and All-Party Groups

Origin and purpose of the three Registers

1. The origin of the keeping of these Registers lies in the mid-1980s. Ten years after the introduction of the Register of Members' Interests in 1974, the Select Committee on Members' Interests (a predecessor of the Committee on Standards and Privileges) conducted an inquiry into concerns about parliamentary lobbying and recommended that:

“When they are approached, Members of the House must be able readily to identify the source and true nature of the approach. Equally the full purposes of those with access to Parliament should be known. We are convinced that greater openness would now be beneficial in certain areas.”⁶⁸

2. To meet those concerns the Committee concluded that registers should be set up for Members' staff, journalists and All-Party Groups. The Committee's recommendations were subsequently agreed by the House on 17 December 1985 and the first registers were published in 1986. The form and substance of each register are detailed in the sections below.

Members' Secretaries and Research Assistants

3. Those holding a parliamentary pass as a Member's secretary or research assistant are required to record on this Register, commonly called the Members' Staff Register, any other occupation or employment from which they receive income exceeding half of one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.⁶⁹ They also have to register any tangible gift (eg silverware) and any other benefit (eg. hospitality, service or facilities provided) which they receive, if the value of the gift or benefit exceeds that sum and the gift arises from or relates to their work in Parliament.

Journalists' Register

4. Those holding a pass as a Lobby journalist accredited to the parliamentary Press Gallery or for parliamentary broadcasting are required to register any occupation or employment from which they receive income exceeding one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.⁷⁰

All-Party Groups' Register

5. The membership of All-Party Groups consists mainly of backbench Members of the House of Commons and Lords but may also include Ministers and non-parliamentarians. There are two types of group: subject groups (relating to a particular topic, e.g. forestry) and country groups (relating to a particular country or region).
6. Inclusion on the Register of All-Party Groups is compulsory for any group which includes Members of the Commons from more than one party and has at least one officer who is from the Commons. Such groups are required to register the group's title and the names of its officers. Financial and material benefits received by the group as a whole must also be registered, where the group receives during a calendar year one or more benefits from the same source whose total value is £1000 or more. Lastly, the group must register details of any staff servicing the group who receive payment from sources outside Parliament for any occupation or employment that is advantaged by the privileged access to Parliament

⁶⁸ See Select Committee on Members' Interests, First Report of Session 1984-85, HC 261

⁶⁹ Over£325 during the period of this report.

⁷⁰ Over£650 during the period of this report.

they have by virtue of holding a parliamentary pass.

7. Groups that qualify for inclusion on the Register of All-Party Groups may also apply for inclusion on the Approved List. Both are compiled by my office and with very few exceptions most groups are on both. By being on the Approved List, a group qualifies for certain entitlements, largely to do with use of the House's facilities. Additional rules apply to groups on the List. For example, they must hold an annual election of officers and must also register the names of a minimum of ten Members from the Government party and ten from the Opposition parties.
8. To distinguish them from other formal and informal groups of MPs within Parliament (e.g. select committees) approved groups must include the term All-Party Parliamentary Group in their title or else Associate Parliamentary Group. The distinction here is that both types of group may have non-parliamentarians as members but whereas the latter allows voting rights to such members the former does not.
9. The usual pattern is for the number of groups to be at its highest towards the end of a parliament, then to drop after a general election (when all groups have to re-register), before rising again to equal or exceed the previous parliament's total.

Overlap between the Registers

- Hospitality (eg relating to overseas visits) is received by an All-Party Group. This may need to be registered on both the Register of All-Party Groups and the Register of Members' Interests (and may also need to be registered with the Electoral Commission, depending on its value to each individual Member).
- An external organisation or individual subsidises a staff member's salary. This may need to be registered on both the both the Register of Members' Interests and the Register of Interests of Members' Secretaries and Research Assistants, and if the staff member acts as part of the staff to an All-Party Group, on the Register of All-Party Groups as well.
- An external organisation or individual subsidises the attendance of a Member and of their staff at a particular event. This may need to be registered on both the Register of Members' Interests and the Register of Interests of Members' Secretaries and Research Assistants.

Access to the three Registers

10. The three registers are not published in printed form but are published on the Commissioner's webpage, which is part of Parliament's website.⁷¹ A paper copy of each register is also held at the House of Commons where anyone may inspect it by arrangement. An updated edition of each register is usually issued every 4-6 weeks when the House is sitting.

Complaints relating to the three Registers

11. Complaints relating to the three Registers have in past years been rare in comparison with complaints relating to the Register of Members' Interests. The Committee on Standards and Privileges' Ninth Report of Session 2005-06 (about All-Party Groups) represented the first case of a formal report to the House exclusively relating to a complaint concerning a Register other than the Register of Members' Interests.

⁷¹ See the Publications section of our website at www.parliament.uk/pcs. Requests to consult historic copies of the three Registers should be made to the Assistant Registrar by calling 020 7219 0401.

Appendix 3: Memorandum of Understanding between the Electoral Commission and the Parliamentary Commissioner for Standards: 15 April 2009

Background

1. This Memorandum of Understanding (MOU) between the Electoral Commission and the Parliamentary Commissioner for Standards records our joint agreement on the new administrative arrangements to be adopted on the commencement of Section 59 and Schedule 1, paragraph 99 (the part which inserts the new schedule 7A(16)) of the Electoral Administration Act 2006 (EAA), which ends the requirement on Members of Parliament to report certain donations and “regulated transactions” (loans, connected transactions and credit facilities) directly to the Electoral Commission.

2. The Electoral Commission is required to publish certain information about permissible donations made to and regulated transactions entered into by Members of Parliament as regulated donees under Schedule 7 paragraph 15 of the Political Parties, Elections and Referendums Act 2000 (PPERA). It is required to publish this information “as soon as is reasonably practicable”. The Commission is also required under section 145 of PERPA to monitor compliance with the legal restrictions on the permissibility of donations made to and regulated transactions entered into by Members.

3. The Parliamentary Commissioner for Standards is required to publish in the Register of Members' Financial Interests (RMFI) such information about Members' financial interests as is required by the Rules of the House of Commons. In this he is assisted by the Registrar of Members' Financial Interests (“the Registrar”).

4. The House of Commons has amended its rules to require Members to report to the Parliamentary Commissioner for Standards all such information as is required by the Electoral Commission under PERPA and the EAA in respect of permissible donations and regulated transactions. This requirement will come into effect on such date as Section 59 of the EAA comes into force.

5. Under the proposed new arrangements, the Electoral Commission will draw from the RMFI the information it is required to publish in respect of permissible donations to and regulated transactions entered into by Members, and will publish this information in its own register. Members will no longer be required to report such donations and regulated transactions directly to the Electoral Commission but will, instead, report them to the Parliamentary Commissioner for Standards for publication in the RMFI.

6. Members will continue to report donations from unidentifiable and impermissible sources and regulated transactions with impermissible lenders directly to the Electoral Commission, which retains regulatory oversight of all donations and regulated transactions from such sources. Consequently the Office of the Commissioner will make no inquiries as to permissibility before publication of information submitted to the Registrar.

Access to information

7. Successive editions of the RMFI will be published in a format enabling easy identification of new material.

8. Following its first publication after a general election, the RMFI is published approximately fortnightly when the House is sitting. With two exceptions, this timetable is adequate to allow the Electoral Commission to fulfil its obligation to publish the required information “as soon as is reasonably practicable”. These exceptions are the period following a general election, when there is an extended interval before the publication of the first RMFI of a Parliament, and the long summer recess, when it is usual to publish shortly after the rising of the House (which is usually in July), once in September and then again after the House resumes.

9. For the purposes of the Electoral Commission fulfilling its statutory obligations under PERPA, the Parliamentary Commissioner for Standards agrees to give to the Electoral Commission, during the periods described in paragraph 8 above, supervised access to his office in order to make an extract, scan or take copies

of the relevant returns by Members to the Registrar. Publication of this information by the Electoral Commission during these periods may, and usually will, take place in advance of its publication in the RMFI.

10. The Registrar will be responsible for the collection, retention and storage of the original information supplied to the Parliamentary Commissioner for Standards in accordance with the Rules of the House of Commons.

11. The Registrar will, on request, provide the Electoral Commission with reasonable access to original material where it is relevant to a question relating to the permissibility of the source of a donation or regulated transaction.

12. The addresses of individual donors, which are required by the Electoral Commission in order to verify that a donation or regulated transaction is from a permissible source, will be forwarded by the Registrar to the Electoral Commission by e-mail at the time of publication of each edition of the RMFI.

Advice and guidance

13. Advice to Members on their reporting obligations under the Rules of the House will be provided by the Registrar. The Registrar will refer questions about the permissibility of donations and regulated transactions to the Electoral Commission. The Electoral Commission will provide advice to the Registrar in respect of the valuation of donations where this is in doubt.

14. The Electoral Commission and the office of the Parliamentary Commissioner for Standards Registrar may jointly hold seminars for Members on reporting and permissibility requirements in respect of donations and regulated transactions.

Matters relating to investigations

15. Information required by the House of Commons under its Rules is subject to oversight by the Parliamentary Commissioner for Standards, who may investigate allegations of breaches of these Rules and who reports to the Committee on Standards and Privileges.

16. For the purposes of monitoring compliance with PPERA in respect of the permissibility of donations and regulated transactions, the Electoral Commission may ask the Registrar to confirm that certain information was submitted to her and the date on which it was submitted.

17. Where the Electoral Commission forms the opinion that information published in the RMFI or an individual address provided by the Registrar to the Commission suggests that an impermissible donation or regulated transaction has been accepted or entered into, it will first approach the Registrar to exclude the possibility of an error in the preparation of the RMFI or the transmission of the address. The Electoral Commission will only approach the Member after receiving a reply from the Registrar or her office. To ensure that the Electoral Commission's inquiries can be conducted in a timely manner, the Registrar will ensure that she or her office responds within five working days of the approach being received.

Review of arrangements

18. The Electoral Commission and the Office of the Parliamentary Commissioner for Standards will keep under review the effectiveness of the arrangements set out in this Memorandum and of the aligned reporting arrangements arising from the commencement of Section 59 and Schedule 7A(16) of the EAA. To this end the Registrar and a representative of the Electoral Commission will meet every six months and will consider whether to recommend any change to this Memorandum to the Electoral Commission and the Parliamentary Commissioner for Standards.

Commencement date of the proposed new arrangements

19. The arrangements described in this Memorandum shall commence on the date on which Section 59 of the EAA shall come into force.

Peter Wardle
Chief Executive
Electoral Commission

John Lyon CB
Parliamentary Commissioner for Standards

15 April 2009