



House of Commons
Committee on Standards and
Privileges

**Sir John Butterfill, Mr
Stephen Byers, Ms
Patricia Hewitt, Mr
Geoff Hoon, Mr Richard
Caborn and Mr Adam
Ingram**

Ninth Report of Session 2010–11

Report, together with formal minutes

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The Committee on Standards and Privileges

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

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The constitution and powers of the Committee are set out in Standing Order No. 149. In particular, the Committee has power to order the attendance of any Member of Parliament before the committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: www.parliament.uk/sandp.

Committee staff

The current staff of the Committee are Mr Steve Priestley (Clerk), Miss Rhiannon Hollis (Second Clerk) and Ms Jane Cooper (Committee Assistant).

Contacts

All correspondence should be addressed to The Clerk of the Committee on Standards and Privileges, Journal Office, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6615.

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Introduction

Background

1. In early 2010, the *Sunday Times* newspaper and the makers of the *Dispatches* television programme arranged for a number of Members of Parliament each to meet an undercover reporter. The MPs were told that the meetings were with a representative of a US communications company, which was considering forming an advisory board in the UK. The premise was that the Members, all of whom were standing down at the forthcoming General Election, were being considered for a remunerated post on the board or for consultancy work. The company was fictitious, although a website had been set up to make it appear genuine.

2. Records of the meetings were subsequently used by the *Sunday Times* and by *Dispatches* in articles and in a broadcast, in which it was suggested that the conduct of some of the Members concerned had in various ways been contrary to the rules of the House. Members had been recorded discussing how, after the election, they might assist the fictitious company to gain access to Ministers and officials. Some had spoken of what appeared to be previous achievements in this field. It was alleged that the Members had brought the House into disrepute.

3. Immediately following the first reports in the *Sunday Times*, some of the Members who had attended meetings with the undercover reporter sought to refer their conduct to the Commissioner. The Commissioner subsequently received complaints from other Members, some of which were against the Members who had also sought to refer themselves. A valid complaint takes precedence over a self-referral. The Commissioner accepted complaints against five Members for investigation and with our agreement he accepted one self-referral. The Members were Sir John Butterfill (who referred himself), Stephen Byers, Patricia Hewitt and Geoff Hoon (all complained against by Justine Greening) and Richard Caborn and Adam Ingram (both complained against by Greg Hands).

4. On 22 November, the Commissioner sent us a memorandum, reporting on his investigation.¹ We are grateful to the Commissioner for the thoroughness of his work. In particular, we welcome his decision to obtain certified transcripts of the meetings each of the six Members had with the undercover reporter; this has ensured that his conclusions are based on more complete evidence than if he had relied just on the extracts reported or broadcast by the media. We also endorse the Commissioner's decision to present his findings and conclusions on each of the six cases separately, but in a single memorandum, which has enabled him to draw together some common threads. We have adopted the same approach in our Report.

¹ Volume II, Appendix 1

The structure of this Report

5. The Commissioner's memorandum contains a full description of the part each of the Members played in their meetings with the undercover reporter and considers in detail whether each Member's conduct during the meetings or in actions described during the meetings may have been in breach of the rules. We have not set out in detail all the findings of the Commissioner, which are reproduced in full at Appendix 1. Instead, in the following sections of our Report we highlight in turn what appear to us to be the more significant findings in respect of each of the former Members.

6. We sent copies of the relevant parts of the Commissioner's memorandum to each former Member, for comment. Three of them submitted written evidence and one of these three also gave oral evidence. The evidence is summarised in the relevant sections.² We also present our conclusions on each former Member, in some cases with recommendations. Finally, we comment on the broader points made by the Commissioner.

² The evidence is published in full in Volume II of this Report

General considerations

7. Although the Commissioner has very properly considered each case separately and on its own merits, he has also noted that there are some procedural issues which apply, to a greater or lesser degree, to all the cases. We consider those issues in the following paragraphs. We then consider the options available to the House in dealing with a breach committed by a Member after that Member has left Parliament.

Conduct of those who carried out the sting

8. The Commissioner has made it clear in his memorandum that it is not for him to pass judgment on the conduct of those involved in the duping of the former Members who are the subject of this Report: the reporter, the production company, the broadcaster or the press. As the Commissioner states: “If there are any questions as to the conduct of any of those individuals or bodies, that is a matter for others.”³

9. The relevant body in Parliament to investigate such matters is the Culture, Media and Sport Committee. In its Second Report of Session 2009-10, *Press standards, privacy and libel*, the Committee referred to the code of practice of the Press Complaints Commission, which under the heading “Clandestine devices and subterfuge” includes the following:

- i. The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices;
- ii. Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.⁴

We understand that detecting or exposing serious impropriety is considered by the PCC to provide a public interest justification both for clandestine recording and for subterfuge. We accept that some breaches of the Code of Conduct of the House of Commons are likely to amount to serious impropriety. But we consider that where subterfuge fosters rather than exposes such impropriety it can cross the line into entrapment, and when that is so the role of those setting the trap may be open to question.

Should the Members have fallen for it?

10. As the Commissioner has stated, the six Members were “duped”.⁵ The Commissioner has not considered whether the Members should have spotted the subterfuge; he has quite rightly based his inquiry on what the Members thought they were doing. He has also quite rightly judged their conduct against what they might reasonably have expected would happen: that the statements each made in the course of the meeting with someone they understood to be working on behalf of an American company would be relayed back to

³ Appendix 1, paragraph 655i

⁴ Second Report from the Culture, Media and Sport Committee, Session 2009-10, *Press standards, privacy and libel*, Annex

⁵ Appendix 1, paragraph 655iii

that company. Although it was reasonable for them to expect that what they said would not be published, they were not speaking in complete confidence. Neither were they having an “informal chat”; as the Commissioner has put it, each interview was “a discussion with a purpose.”⁶

11. We feel less constrained than does the Commissioner when it comes to commenting on this aspect of the conduct of our former colleagues. We accept, as does the Commissioner, that the flaws in the cover story provided by those carrying out the deception are more obvious in hindsight than they would have been at the time. We also understand, perhaps better than most, the desire of anyone who is leaving Parliament to provide for a secure future. But we are still surprised that experienced MPs fell for it. They should have known better. Their behaviour raises serious questions about their judgment.

Accuracy of the record

12. We are pleased that the Commissioner was able to obtain from the production company a certified transcript of each of the six ‘interviews’.⁷ Although the quality of five of the transcripts appears to be generally good, there are sections where what was said is indistinct. But each Member was able to challenge the accuracy of the transcript and one (Mr Hoon) did so. Like the Commissioner, we are satisfied that the transcripts provided sufficient basis for him to ask the former Members to explain what they were recorded as saying.

Application of the Code

13. Mr Hoon sought to argue that the Code of Conduct should not be applied to many of the statements and actions which have been covered in the Commissioner’s inquiry. Mr Hoon’s contention was that he was discussing what he might do after leaving Parliament, when he would no longer be subject to the Code; that in any case his employment prospects were not covered by the Code, which explicitly states that it does not apply to what Members do in their purely private and personal lives; and that meetings he had had while still a Member and which he referred to in the course of the meeting on 3 March were carried out in a personal capacity, not as an MP.⁸

14. The Commissioner accepts that the Code does not apply to actions which a Member suggests he or she may carry out after leaving Parliament. But it does apply to activities undertaken while still a Member, including the meeting each Member held with an undercover reporter. The Commissioner also takes the view that the positions for which Mr Hoon and the other Members believed they were being considered were an aspect of their public lives, in which connection he notes that the employment of former Ministers is regulated by an Advisory Committee on Business Appointments.⁹ In our judgment, the Code applies to a Member in circumstances where—as in the cases in point—the fact that the Member is an MP is relevant. In all the cases considered in this Report, the Members’

⁶ Appendix 1, paragraph 655iv

⁷ Appendix 1, paragraph 655ii

⁸ Appendix 1, paragraphs 406 and 407

⁹ Appendix 1, paragraph 655v and vi

status and record as an MP (and in all but one case also as a Minister) appears to have been the reason why they had been invited to the meeting. This was not about their purely private or personal lives.

15. Mr Hoon made similar points directly to us, which we summarise later in this Report.

Sanctions against former Members

16. We are unaware of any modern precedent for punishing a former Member for misconduct committed while still a Member. The range of sanctions available to the House when dealing with such a breach must be regarded as very limited. The options of requiring an apology on the floor of the House or of suspension from the service of the House are of course no longer applicable in such cases. It is commonly supposed that the House has untrammelled power to fine or to imprison offenders, but no-one has been fined by the Commons since 1666 and the last committal of an offender was in 1880.¹⁰ The use of these powers would be a major step; it is not a step we invite the House to take. It is also some time since anyone was summoned to the bar of the House to be reprimanded or to apologise, the last case being in 1957.¹¹

17. The House may not interfere with the pension entitlement of a former Member, which is a matter governed by statute.¹² The House does, however, retain control over access to its precincts. The current rules allow former Members to apply for and be issued with a photopass, which grants them privileged access to parts of the Parliamentary estate and to some of the facilities located on the estate. This entitlement can be suspended or withdrawn.

18. The principal sanction, however, is and will in all likelihood remain the damage which an adverse finding by the Commissioner, backed up by a critical Report from this Committee, inflicts on someone whose status and, in some cases, livelihood depends in large part on their public reputation.

¹⁰ *Erskine May*, 23rd Edition, pp 156-160

¹¹ *Erskine May*, 23rd Edition, p 163

¹² *Erskine May*, 23rd Edition, p 32

1 Sir John Butterfill

Introduction

19. Sir John Butterfill was the Member for Bournemouth West when he met the undercover reporter on 24 February.¹³ The interview was referred to in the *Sunday Times* article of 21 March and parts of it were broadcast in the *Dispatches* programme the following evening. Sir John sought to refer himself to the Commissioner in an e-mail on 22 March and, having consulted the Committee, the Commissioner accepted the self-referral on 23 March.¹⁴

The Commissioner's findings

20. The Commissioner does not consider that any of the statements made by Sir John during the course of his meeting with the undercover reporter or any of the actions he took as a Member referred to in his statements were in breach of the rules of the House.¹⁵ He has not, therefore, upheld the allegations against Sir John.

21. The Commissioner's main findings in relation to Sir John are set out below.

- The Commissioner accepts Sir John's evidence that he did not make introductions to Ministers for paying clients when he was a Member. His offer to make such introductions once he had left the House was not a breach of the Code.¹⁶
- Sir John had acted as a consultant advising on government contracts while still a Member but had not been paid for this work.¹⁷ The Commissioner accepts Sir John's evidence that his comment that his Private Members' Bills had been *pro bono* was not meant to imply that other such Bills were not *pro bono*.¹⁸
- Sir John's comments about his possible elevation to the House of Lords were "clearly unwise" and "reflected poorly on him" but they did not reach the level at which it could be held that he had brought the House into disrepute.¹⁹
- Sir John used a "colourful" term to describe actions he had taken to protect constituency interests but the actions themselves were entirely appropriate.²⁰
- Other statements by Sir John to the undercover reporter referred to work which he might undertake as a former Member after the Election but there was either no

¹³ Appendix 1, paragraph 46

¹⁴ Appendix 1, paragraph 13

¹⁵ Appendix 1, paragraph 667

¹⁶ Appendix 1, paragraph 657

¹⁷ Appendix 1, paragraph 658

¹⁸ Appendix 1, paragraph 663

¹⁹ Appendix 1, paragraph 659

²⁰ Appendix 1, paragraph 662

suggestion or no real prospect that he would undertake such work while still an MP.²¹

22. We sent Sir John a copy of the Commissioner's findings of fact and conclusions. Sir John informed us that he did not wish to submit evidence.

Conclusion

23. The Commissioner has not upheld the allegations against Sir John Butterfill. We agree with the Commissioner that Sir John did not breach the Code or the rules, although we do consider that—like the other Members—he was unwise to agree to the meeting and we believe that some of his comments were unfortunate. We make no recommendation in this case.

²¹ Appendix 1, paragraphs 660, 661, 664, 665 and 666

2 Mr Stephen Byers

Introduction

24. Mr Byers was the Member for North Tyneside when he met the undercover reporter on 23 February.²² He contacted the reporter on 24 and 25 February, seeking to withdraw some of his remarks.²³ On 11 March, he contacted the reporter, withdrawing his name from consideration for the appointment for which he had been told he was being considered. The interview was referred to in the *Sunday Times* article of 21 March and parts of it were broadcast in the *Dispatches* programme the following evening. Mr Byers sought to refer himself to the Commissioner in an e-mail on 22 March but the Commissioner received a complaint against him from the Member for Putney, Justine Greening, later the same day.²⁴ A valid complaint takes precedence over a self-referral; the Commissioner accepted the complaint for investigation on 23 March.

The Commissioner's findings

25. The Commissioner has found that Mr Byers committed a particularly serious breach of the rules of the House when he made false statements to the undercover reporter, because these statements brought the House and its Members into disrepute. Mr Byers' attempts to withdraw some of his remarks went some, but not the full way to undoing the damage he had caused.

26. The Commissioner's main findings in relation to Mr Byers are set out below.

- Mr Byers' statements to the undercover reporter that he had access to confidential information from Number 10 and that he knew very well someone in the Office of the then Leader of the Opposition were untrue.²⁵ They were not, however, sufficiently developed to amount to a breach of the Code.²⁶
- Mr Byers' statement that an election period was a good time to gain access to civil servants was not a breach and there is no evidence that Mr Byers had himself acted in this way.²⁷
- Mr Byers' suggestion that he could help a paying client to remove regulatory obstacles to the client's business was not a breach and there is no evidence that Mr Byers had himself acted in this way.²⁸
- Mr Byers properly registered payments he received for work he carried out for Consolidated Contractors International.²⁹

²² Appendix 1, paragraph 180

²³ Appendix 1, paragraph 181

²⁴ Appendix 1, paragraphs 8 and 10

²⁵ Appendix 1, paragraph 668

²⁶ Appendix 1, paragraph 680

²⁷ Appendix 1, paragraph 669

²⁸ Appendix 1, paragraph 670

- Mr Byers suggested to the undercover reporter that he could use Parliamentary facilities to entertain the fictitious company's business contacts, which would be contrary to the rules, but his offer was not taken up and it would therefore be unfair to conclude that he was in breach of the rules.³⁰
- Mr Byers told the undercover reporter that he was like "a sort of cab for hire". This statement was clumsy and ill-judged, but it referred to Mr Byers' availability for work after the forthcoming General Election and it did not, therefore, breach the rules of the House.³¹
- Mr Byers that he charged between £3,000 and £5,000 a day for work outside Parliament. This statement was true and Mr Byers had properly registered the payments he had received, so he had not breached the rules of the House.³²
- Mr Byers' suggestion that, as the architect of the Enterprise Act, he knew ways round it was untrue, as were other statements about amending food labelling regulations, about what was said at a meeting he had held with Lord Adonis, about working for Rio Tinto, about influencing Ofwat's investment programme, and about contacts with civil servants on behalf of water companies. By telling these untruths, Mr Byers brought the House and its Members generally into disrepute, contrary to paragraph 15 of the Code of Conduct.³³

27. The Commissioner explains in his memorandum why this was a "particularly serious" breach of the Code. Mr Byers claimed to have acted in ways which "were both unethical and, in some cases, possible examples of paid advocacy on behalf of a particular client."³⁴ His claims can only have given the impression that this was how MPs behaved or were allowed to behave. They also cast aspersions on the behaviour of Ministers and of commercial companies.³⁵

28. The Commissioner accepts that it is to Mr Byers' credit that in the course of the inquiry he offered his sincere and unreserved apologies for his conduct. But it took some time for Mr Byers to reach this point: he made several attempts to retract some of the things he said before he withdrew completely from the bogus recruitment exercise. This was not enough to undo the damage he had by then caused to the reputation of Parliament.³⁶

Mr Byers' evidence

29. Having been sent a copy of the Commissioner's findings of fact and conclusions, Mr Byers submitted the following evidence:

²⁹ Appendix 1, paragraph 676

³⁰ Appendix 1, paragraph 678

³¹ Appendix 1, paragraph 679

³² Appendix 1, paragraph 683

³³ Appendix 1, paragraphs 671 to 675, 677 and 680

³⁴ Appendix 1, paragraph 681

³⁵ Appendix 1, paragraph 682

³⁶ Appendix 1, paragraph 684

I believe that the Commissioner has carried out a thorough and comprehensive investigation into the complaint made against me. I accept in full his findings of fact and conclusions in relation to my conduct.

I could try and put together all sorts of excuses as to how I came to make the statements I did but I must accept that I simply should not have spoken in such terms.

I deeply regret that my statements caused damage to the reputation of Parliament. Having had the privilege of serving in the House for 18 years this is the last thing I would want to have done.

I would like to take this opportunity to offer to the Committee and the whole House my sincere and unreserved apologies. I was wrong to have made the statements I did and am sorry for the damage they caused to the reputation of Parliament.³⁷

Conclusion and recommendation

30. We welcome Mr Byers' full acceptance of the Commissioner's conclusions and his unreserved apology to the House for his conduct. We agree with Mr Byers that he was wrong to make the statements he did. The deep regret that he has expressed goes some way towards putting right the wrong. But this was, as the Commissioner has found, a particularly serious breach of the Code. We do not believe that the matter can be allowed to rest with an apology.

31. We recommend that, for committing a particularly serious breach of the Code of Conduct, Mr Stephen Byers' entitlement to a Parliamentary photopass be suspended for two years, with effect from 1 January 2011. If Mr Byers had not accepted that his conduct was wrong and had not apologised in such unequivocal terms, we would have recommended that this entitlement be withdrawn for a much longer period.

3 Ms Patricia Hewitt

Introduction

32. Ms Hewitt was the Member for Leicester West when she met the undercover reporter on 9 March.³⁸ The interview was referred to in the *Sunday Times* article of 21 March and parts of it were broadcast in the *Dispatches* programme the following evening. Ms Hewitt sought to refer herself to the Commissioner in an e-mail on 22 March but the Commissioner received a complaint against her from the Member for Putney, Justine Greening, later the same day.³⁹ The Commissioner accepted the complaint for investigation on 23 March.

The Commissioner's findings

33. The Commissioner has not upheld any of the allegations against Ms Hewitt, although he concludes that some of her statements raise wider issues about the House's rules.⁴⁰

34. The Commissioner's main findings in relation to Ms Hewitt are set out below.

- Ms Hewitt described five ways in which Ministers can be lobbied, but there is no suggestion she had engaged in such activity herself and she was not, therefore, in breach of the rules.⁴¹
- Ms Hewitt gave advice about how to remove a regulation and how to change or influence legislation but this was in the context of what might happen after the General Election and was not in breach of the rules.⁴²
- Ms Hewitt spoke about her regular contacts with civil servants but such evidence as there is does not support a conclusion that these contacts were improper.⁴³
- In the meeting with the undercover reporter, Ms Hewitt inadvertently exaggerated the effects of her consultancy role on behalf of Partnerships in Care (PiC) but she took the necessary steps to ensure that her work for PiC did not breach the rules.⁴⁴
- Ms Hewitt also took the necessary steps to ensure that her work for a private equity firm, Cinven, did not breach the rules; her claim to the undercover reporter that she had spoken to officials on behalf of the firm was mistaken and a "minor slip."⁴⁵ She properly registered the payments she received for her work for Cinven.⁴⁶

³⁸ Appendix 1, paragraph 307

³⁹ Appendix 1, paragraphs 9 and 10

⁴⁰ Appendix 1, paragraph 692. The wider issues are considered in the concluding section of this Report.

⁴¹ Appendix 1, paragraph 685

⁴² Appendix 1, paragraphs 686 and 687

⁴³ Appendix 1, paragraph 688

⁴⁴ Appendix 1, paragraph 689

⁴⁵ Appendix 1, paragraph 690

⁴⁶ Appendix 1, paragraph 691

35. We sent Ms Hewitt a copy of the Commissioner's findings of fact and conclusions. Ms Hewitt informed us that she did not wish to submit evidence.

Conclusion

36. The Commissioner has not upheld the allegations against Patricia Hewitt. We agree with the Commissioner that Ms Hewitt did not breach the Code or the rules, although we do consider that—like the other Members—she was unwise to agree to the meeting. We make no recommendation in this case.

4 Mr Geoff Hoon

Introduction

37. Mr Hoon was the Member for Ashfield when he met the undercover reporter on 3 March.⁴⁷ The interview was referred to in the *Sunday Times* article of 21 March and parts of it were broadcast in the *Dispatches* programme the following evening. The Commissioner received a complaint against Mr Hoon from the Member for Putney, Justine Greening, on 22 March.⁴⁸ The Commissioner accepted the complaint for investigation on 23 March.

The Commissioner's findings

38. The Commissioner has concluded that Mr Hoon committed a “particularly serious” breach of the rules of the House in making statements to the undercover reporter about disclosing confidential information he implied he was receiving or could access from the Ministry of Defence (MoD) about the UK’s Strategic Defence and Security Review for the benefit of business clients who might be considering seeking contracts with the MoD and for the benefit of a private equity fund. In the Commissioner’s judgment, Mr Hoon’s conduct brought the House of Commons and its Members generally into disrepute, contrary to paragraph 15 of the Code of Conduct.⁴⁹

39. The Commissioner’s main findings are set out below.

- Mr Hoon’s comments to the undercover reporter that he was looking forward to translating his knowledge and contacts about the international scene into “something that, bluntly, makes money” were ill-judged but because they related to his prospective employment after leaving Parliament they did not breach the Code or the rules.⁵⁰
- Other remarks made by Mr Hoon, about chairing companies, leading a delegation to a Minister, gaining personal access to Ministers, briefing a private equity fund on defence policy, and supplying an academic paper on defence policy were within the rules.⁵¹
- Mr Hoon told the undercover reporter that he had met officials who were working on the defence review. The Commissioner concludes that there was no requirement for Mr Hoon to declare a financial interest to those officials, because at the time he met them he did not expect to have such an interest.⁵² But the Commissioner also concludes that Mr Hoon did breach the Code of Conduct,

⁴⁷ Appendix 1, paragraph 405

⁴⁸ Appendix 1, paragraph 10

⁴⁹ Appendix 1, paragraph 705

⁵⁰ Appendix 1, paragraph 693

⁵¹ Appendix 1, paragraphs 694 to 696, 701 and 702

⁵² Appendix 1, paragraph 699

because he offered to brief the fictitious company’s clients about the review, giving at least the impression that he would draw on what he had learnt in his meeting with officials.⁵³

- Mr Hoon suggested that he might brief a private equity company on defence policy, giving the impression that he was offering an inside track on defence strategy. Although it was less clear-cut than the other breach, this offer also breached the Code.⁵⁴

Mr Hoon’s evidence

40. Mr Hoon sent us written evidence on 29 November.⁵⁵ He gave oral evidence on 30 November. Mr Hoon also sent us a statement he had intended to make at the start of his oral evidence.⁵⁶

Application of the Code

41. In his written evidence to us, Mr Hoon develops his argument, also made to the Commissioner, that the Code should not apply to what he believed at the time was a private conversation about his future as a private citizen.⁵⁷ Mr Hoon writes that the Commissioner was “factually wrong” to suggest that the Advisory Body on Business Appointments (ACOPA) considers public appointments; he points out that ACOPA considers all relevant appointments for former Ministers within a certain timeframe after they leave office. The fictitious job for which Mr Hoon—who at the time of the interview was no longer subject to ACOPA guidelines—was being considered would not have been public in the sense of being required to be published.

MoD briefing on the strategic defence review

42. In his written statement; in his introductory statement; and in his oral evidence, Mr Hoon argues that the Commissioner was wrong to conclude that he gave the impression that he was briefed by Ministry of Defence officials about the strategic defence review. Much of the case made by Mr Hoon rests on whether he said to the undercover reporter that “some of the people in the team in the MoD ... briefed me about this.” In the context of the discussion, “this” would logically refer to the strategic defence review, which Mr Hoon says he was not briefed about and even if he had been he would not have offered to share such a briefing with others. Mr Hoon contends that it is not clear that he said “this” and that he was actually referring to a briefing he gave to the same officials about a NATO policy review in which he was playing a part, which was therefore something he could repeat to others. The Commissioner concludes that Mr Hoon did say “this”. Some of us listened to a recording of the conversation between Mr Hoon and the undercover reporter

⁵³ Appendix 1, paragraph 698

⁵⁴ Appendix 1, paragraph 700

⁵⁵ Appendix 4

⁵⁶ Appendix 5

⁵⁷ Appendix 5

and we conclude that Mr Hoon definitely said “this”. The sense that we gained from watching the interview was that “this” was a reference to the strategic defence review.

43. Whether Mr Hoon said “this” matters because, if he did, and if “this” referred to the strategic defence review, then it appears that he was giving the impression that he would be prepared to use information from a briefing by officials to brief a paying client. Mr Hoon asks us to accept that there are other possible interpretations of what he said. He also points out that people rarely speak in perfectly formed sentences in an informal setting.⁵⁸ He says that he has heard from many people who have sympathised with him for these reasons and because he was only trying to make the best case he could for getting the job.⁵⁹

44. Mr Hoon has acknowledged that in offering to brief clients about defence matters he may have been “showing off his knowledge and experience of the MoD and the people in it” but he denies strongly that it was or could have been his true intention to imply that he was in a position to share a confidential MoD briefing on the strategic defence review.⁶⁰ He rejects completely the Commissioner’s conclusion that in the context of the discussion, what he said could only have been understood as an offer to brief clients on the review, drawing on briefings he had received from MoD officials.⁶¹ He argues that the Commissioner is wrong to find that he has committed a serious breach of the Code when “there is sufficient doubt about the meaning of the words that I used to allow a different conclusion to be reached” and he suggests that a high standard of proof should be required for such a finding.⁶²

An inside track on defence strategy?

45. Mr Hoon’s written evidence to the Committee provides a fuller explanation than that which he provided to the Commissioner of his role in a policy review carried out by the NATO Group of Experts, of which he was a member.⁶³ Mr Hoon also acknowledged in oral evidence that he had not explained to the undercover reporter in detail what this role entailed and that much of the review’s work was publicly available.⁶⁴ If he had provided such an explanation, Mr Hoon might have avoided giving the impression that, in the Commissioner’s words, he had “an inside track on defence strategy” which was based at least in part on confidential briefings from officials in the MoD.⁶⁵ The Commissioner has concluded that by giving that impression, Mr Hoon brought the House into disrepute and breached the Code. When we questioned him about this, Mr Hoon denied that his knowledge and understanding of the issues was dependent on official briefings.⁶⁶ He continued:

⁵⁸ Q9

⁵⁹ Q11

⁶⁰ Appendix 4

⁶¹ Appendix 1, paragraph 698; Appendix 5

⁶² Appendix 5

⁶³ Appendix 4

⁶⁴ Qq5 and 6

⁶⁵ Appendix 1, paragraph 700

⁶⁶ Q5

It's difficult for me to say what impression I created, in the sense that I clearly had in my mind at the time the fact that I believed that I was suitably qualified for the job that appeared to be on offer. I was trying—I accept this—to talk up my qualifications and experience for the role. If, in talking that up, I failed to properly set out all the detail, then I accept that there is some force in what you're saying.

But part of the point of coming here is to try and emphasise that, in my mind, I was doing no more than what I think many people would do in the context of what was presented to me as being a job interview, and trying to find a way to explain my background and understanding of these issues that would appeal to the people interviewing me.⁶⁷

Conclusions and recommendation

Application of the Code

46. In oral evidence, Mr Hoon accepted that most of what was said at the meeting with the undercover reporter had related to his experience of public life.⁶⁸ That public life was of course as a Member of Parliament and a Minister. For us, this is the key point. Mr Hoon was still a public figure—still an MP—when he attended the meeting, during which he referred constantly to his experience of public life as qualifying him for the appointment he thought he was discussing. Because he was an MP, talking about his experience as an MP, we conclude that his behaviour and statements at the meeting were covered by the Code of Conduct. In our view, the question of whether the appointment he thought he was discussing was or was not a “public appointment” is of less significance.

MoD briefing on the strategic defence review

47. We do not share Mr Hoon's doubts about the meaning of the words he used when talking to the undercover reporter about a possible role for him in briefing their clients on defence policy. The words were uttered in the context of what Mr Hoon thought at the time was an interview for a job in which his contacts and ability to provide access to key people were a major part of his qualification. In our view, Mr Hoon was giving a clear impression during these exchanges that he was offering to brief clients about the strategic defence review on the basis of a confidential briefing he had received from MoD officials. Whether Mr Hoon intended to give that impression, only he can say; but looking at the exchanges between Mr Hoon and the interviewer as a whole we find it difficult to accept that he did not know that he was giving that impression. Having considered very carefully Mr Hoon's written and oral evidence, we agree with the Commissioner that this was a breach of the Code of Conduct, because it brought the House of Commons into disrepute. And it was a particularly serious breach, because of the clear implication that Mr Hoon was prepared to share inside knowledge.

48. The Commissioner reached his conclusion on the basis of a balance of probabilities. Mr Hoon has asked us to apply a higher standard of proof. We do not suggest that it is beyond

⁶⁷ Q7

⁶⁸ Q1

all reasonable doubt that our interpretation of the meaning and effect of what Mr Hoon said at the meeting with the undercover reporter is the correct one. But we do believe it to be significantly more likely to be correct than not to be correct. In our view, that is a sufficiently stringent test to apply to this case.

An inside track on defence strategy?

49. We agree with the Commissioner that, in the context of the discussion taking place between Mr Hoon and the undercover reporter, Mr Hoon's reference to the possibility that he might brief a private equity company about the relationship between the NATO policy review and the strategic defence review was a breach of the Code, because he gave the impression that he had an inside track on defence strategy, which was based at least in part on a confidential briefing from officials in the MoD. This was a less serious breach than that identified above, because the link to the confidential briefing was more tenuous.

Recommendation

50. **We recommend that for committing breaches of the Code of Conduct, one of which was a particularly serious breach, Mr Geoff Hoon apologise to the House through this Committee in writing and that his entitlement to a Parliamentary photopass be suspended for five years, with effect from 1 January 2011.**

5 Mr Richard Caborn

Introduction

51. Mr Caborn was the Member for Sheffield Central when he met the undercover reporter on or about 10 March.⁶⁹ The interview was referred to in a *Sunday Times* article of 28 March.⁷⁰ On the same date, the Member for Chelsea and Fulham, Greg Hands, made a formal complaint to the Commissioner about Mr Caborn.⁷¹

The Commissioner's findings

52. The Commissioner concludes that Mr Caborn committed several breaches of the rules of the House, which he suggests were more likely to be the result of careless oversight than of deliberate intention. This meant that the breaches were less serious than they would otherwise have been.⁷²

53. The Commissioner's main findings in relation to Mr Caborn are set out below.

- Mr Caborn spoke to the undercover reporter about a number of ways in which it is possible to influence Ministers but the Commissioner accepts that Mr Caborn did not do so himself in a way that would have breached the rules.⁷³
- Mr Caborn's statement to the undercover reporter that he might be given a peerage, which would then allow him to gain access to Ministers and others was "ill-judged" and reflects poorly on him. He also made exaggerated statements about his work for AMEC. But these statements did not bring the House and its Members generally into disrepute, so they did not breach the Code.⁷⁴
- Mr Caborn told the undercover reporter that he got access to Ministers for the Fitness Industry Association, for which he was a paid consultant, but the Commissioner accepts that this claim was wrong and concludes that it did not breach the rules.⁷⁵
- Mr Caborn suggested that he had set up or could set up other meetings; these statements did not breach the rules.⁷⁶
- Mr Caborn properly registered the payments he received for consultancy work.⁷⁷

⁶⁹ Appendix 1, paragraph 440

⁷⁰ Appendix 1, WE9

⁷¹ Appendix 1, paragraph 14

⁷² Appendix 1, paragraph 717

⁷³ Appendix 1, paragraph 706

⁷⁴ Appendix 1, paragraphs 707 and 714

⁷⁵ Appendix 1, paragraph 708

⁷⁶ Appendix 1, paragraphs 709, 710 and 715

⁷⁷ Appendix 1, paragraph 716

- Mr Caborn breached the rules when sponsoring three events in Parliament on behalf of outside organisations, because he failed to declare a relevant interest.⁷⁸
- Mr Caborn also breached the rules when in the course of a meeting with the Chairman of a health authority who was also a friend and constituent he failed to declare a relevant financial interest.⁷⁹

54. We set out in full the Commissioner’s overall conclusion in respect of Mr Caborn:

I find that Mr Caborn was in breach of the rules of the House in not declaring his financial interest in the FIA when he had a preliminary discussion with the Chairman of the Sheffield Health Authority about restructuring health services in Sheffield in a way which could have benefited members of the FIA; and that he was in breach of the rules of the House in one failure to declare his registrable interest on a booking form for a House of Commons dinner, and otherwise failing to declare his relevant interest, either on the invitation or in his remarks to those attending three of these events. I have no evidence that any of these breaches was caused by deliberate intention: it was more likely that they were the result of careless oversight. They were therefore less serious on that account. In this comparatively limited respect, I uphold the complaint against him.⁸⁰

Mr Caborn’s evidence

55. We sent Mr Caborn a copy of the Commissioner’s findings of fact and conclusions. Mr Caborn wrote to us on 28 November.⁸¹ He told us that he accepts the Commissioner’s “recommendations”, with the exception of that relating to his meeting with the Chairman of the Sheffield Health Authority. He also told us that he does not accept “the personal subjective comments the Commissioner strays into in parts of the memorandum.”

56. Mr Caborn states that his meeting with the Chairman of his local health authority was carried out in his capacity as a constituency Member. He has known the Chairman for over 35 years and has had dealings with him in a number of different roles. Mr Caborn points out that the Chair of a health authority is neither a Minister nor a Crown Servant. The requirement in the House’s Guide to the Rules for a Member to declare a relevant financial interest in a meeting with a public official refers specifically to Ministers and to Crown Servants. Mr Caborn contends that it did not apply to the meeting he held with the health authority Chair.

57. Mr Caborn has also told us that it was the Chairman of the health authority who raised at the meeting a proposal to put greater emphasis on prevention of health problems—which is the matter to which Mr Caborn’s financial interest was relevant. Mr Caborn’s evidence is that he had not intended to raise the issue himself. If discussion of the proposal had progressed beyond the preliminary stage, Mr Caborn would have declared his interest.

⁷⁸ Appendix 1, paragraph 709 and unnumbered paragraph after paragraph 714 (points x to xii)

⁷⁹ Appendix 1, paragraphs 711 and 712

⁸⁰ Appendix 1, paragraph 717

⁸¹ Appendix 2

58. Finally, Mr Caborn invites the Committee to provide Members and the Commissioner with “clearer guidance” on “how a Constituency MP operates.”

Conclusion and recommendation

59. We note that Mr Caborn has thanked the Commissioner for reaching the conclusion that his breaches of the rules were the result of careless oversight and not deliberate intent. He has accepted the conclusions reached by the Commissioner, with one exception. He has referred to “subjective personal comments” by the Commissioner, but without drawing our attention to any example of such a comment.

60. The conclusion that Mr Caborn does not accept is that he should have declared his financial interest in the Fitness Industry Association when he discussed with the Chairman of the Sheffield Health Authority a proposal for restructuring local health services in a way that would have benefited members of the FIA. Mr Caborn suggests that (a) the relevant rule of the House does not apply to health authority officials; (b) the preliminary nature of the discussion means that it was not “the appropriate time” to make such a declaration; and (c) the proposal was raised without notice by the Chairman of the health authority, whom Mr Caborn was meeting in his capacity as a constituency Member.

61. The Commissioner has observed in his memorandum that (a) successive editions of the Guide to the Rules have advised Members that the requirement to declare a relevant interest applies to meetings with “public officials”, although the rule itself refers only to Ministers and Crown servants; (b) the nature of the proposal and the clear financial benefit that it would have brought to members of the FIA meant that Mr Caborn’s interest was relevant and should have been declared even in the context of a preliminary discussion; and (c) that Mr Caborn referred in his meeting with the undercover reporter to legislation being necessary in order to implement the proposal, which makes it a Parliamentary matter and not simply a constituency matter.⁸²

62. In our view, Mr Caborn should have had greater regard to the purpose of the rules on declaration when, in the course of his meeting with the Chairman of Sheffield Health Authority, a proposal was discussed which, if implemented, would have benefited financially members of a commercial body in which he had a personal financial interest. Mr Caborn has accepted that his interest was relevant, because he has told us that he would have declared it if the discussion with the health authority had progressed beyond the preliminary stage. He also told the undercover reporter that the proposal would benefit the FIA’s bottom line.⁸³ We return later in this Report to the question of whether the rule itself could be better expressed.

63. We agree with the Commissioner that Mr Caborn should have declared his financial interest when he first discussed with the Chairman of a health authority a proposal to which that interest was relevant. The fact that the official whom he was meeting was a contact of long standing and also a constituent has no bearing on the question of declaration. Mr Caborn accepts that he also committed further breaches, in that he failed to

⁸² Appendix 1, paragraphs 711 and 712

⁸³ Appendix 1, WE112, 00:41:41– 00:45:55

declare an interest on several occasions when arranging or taking part in events on the Parliamentary estate. Like the Commissioner, we accept that there is no evidence to suggest that any of these breaches were intentional. Mr Caborn did not bring the House or its Members generally into disrepute.

64. We recommend that for breaching the Code of Conduct Mr Richard Caborn apologise to the House through this Committee in writing and that his entitlement to a Parliamentary photopass be suspended for six months, with effect from 1 January 2011.

6 Mr Adam Ingram

Introduction

65. Mr Ingram was the Member for East Kilbride, Strathavan and Lesmahagow when he met the undercover reporter on or about 9 or 10 March.⁸⁴ The interview was referred to in a *Sunday Times* article of 28 March.⁸⁵ On the same date, the Member for Chelsea and Fulham, Greg Hands, made a formal complaint to the Commissioner about Mr Ingram.⁸⁶

The Commissioner's findings

66. The Commissioner does not consider that any of the statements made by Mr Ingram during the course of his meeting with the undercover reporter were in breach of the rules of the House.⁸⁷ He has not, therefore, upheld the allegations against Mr Ingram.

67. The Commissioner's main findings in relation to Mr Ingram are set out below.

- Mr Ingram's statements to the undercover reporter about contacts with former and future Ministers and with civil servants and his comments about a consortium being put together to bid for defence work were all made in the context of what he might do after leaving Parliament and did not breach the rules.⁸⁸
- Mr Ingram properly registered his income from work he carried out for various companies and as a consultant.⁸⁹

68. We sent Mr Ingram a copy of the Commissioner's findings of fact and conclusions and invited him to submit evidence. Mr Ingram informed us that he had no comment to make.

Conclusion

69. The Commissioner has not upheld the allegations against Mr Ingram. We agree with the Commissioner that Mr Ingram did not breach the Code or the rules, although we do consider that—like the other Members—he was unwise to agree to the meeting. We make no recommendation in this case.

⁸⁴ Appendix 1, paragraph 577

⁸⁵ Appendix 1, WE9

⁸⁶ Appendix 1, paragraph 14

⁸⁷ Appendix 1, paragraph 728

⁸⁸ Appendix 1, paragraphs 718 to 720 and 724 to 726

⁸⁹ Appendix 1, paragraphs 721 to 723 and 727

The need for a wider review

70. The Commissioner's memorandum concludes with some observations about the adequacy of the House's rules on lobbying by MPs and former MPs. As the Commissioner has pointed out, the inquiry he has carried out into allegations about the conduct of six individuals does not of itself provide sufficient basis for specific recommendations for changes to the rules.⁹⁰ The question he has invited us to consider is whether there should be a wider review of the content and operation of the rules, which could then form the basis of recommendations for change.⁹¹

Paid advocacy rule

71. The paid advocacy rule was introduced in 1995 and amended in 2002. The rule prohibits Members from being paid for participating in Parliamentary proceedings or lobbying Ministers or officials, if by their participation or lobbying they would be seeking to confer benefit exclusively on the body or individual outside Parliament which is or may in the future be paying them.⁹²

72. The problem which the Commissioner has identified is that the relaxation of the rule in 2002, which came about in response to a recommendation of the Committee on Standards in Public Life, has provided Members with a defence that the change or action which they are advocating would benefit, not just the person or body which is paying them, but a wider business sector, to which that person or body belongs.⁹³ The Commissioner suggests that it would be desirable to find a way of avoiding the risk of giving the impression that Members can advocate a policy or lobby a Minister or officials for personal benefit, while still enabling them fully to represent their constituents and to speak freely on public policy issues.

Activities of former Members

73. The Commissioner observes that:

This inquiry has shown that, once a Member of Parliament has left the House, there is nothing to prevent them using contacts which they have developed as Members of Parliament in lobbying Ministers or civil servants, including paid advocacy in the exclusive support of those who are paying them.⁹⁴

He points out that there is no equivalent for former Members of the mechanism which limits the freedom of former Ministers to take up paid employment.⁹⁵ The Commissioner recognises that it is human nature for former Members to wish to maintain contacts they

⁹⁰ Appendix 1, paragraph 729

⁹¹ Appendix 1, paragraph 730

⁹² *Guide to the Rules relating to the conduct of Members*, 2009, paragraphs 90, 95 and 96

⁹³ Appendix 1, paragraph 733

⁹⁴ Appendix 1, paragraph 734

⁹⁵ Appendix 1, paragraph 735

have made while working in Parliament, including with Members, Ministers and officials. He accepts that lobbying is a necessary part of the Parliamentary process. The Commissioner does not advocate imposing such restrictions on former Members, but he is concerned about former Members making direct contact with former colleagues who are still in Parliament, with Ministers or with civil servants on behalf of an employer which is paying them.⁹⁶

Meetings with officials

74. As noted above, the terms in which the present advocacy rule is expressed have caused us some concern. Part of Mr Caborn's attempt to explain his failure to declare a relevant interest when he met the Chairman of a health authority was that the rule on declaration applies in terms only to Ministers and Crown servants and that the reference in the Guide to "public officials" needs to be read in that light.⁹⁷

75. Although we have not accepted that his literal interpretation of the rule excuses Mr Caborn's failure to declare his interest, we do feel that it would be helpful if the rule and associated guidance were clarified and, in due course, amended. The precise terms of an amendment to the rule will require careful consideration. Meanwhile, we suggest that Members would be well advised to interpret the advocacy rule as potentially applying to their transactions or communications with any public official.

Conclusion

76. **We agree with the Commissioner that there is a strong case for a review of the rules relating to lobbying.** Such a review could consider the three specific points identified above, which have arisen from his inquiry into the conduct of six former Members. We intend that such a review will be carried out as soon as time permits.

⁹⁶ Appendix 1, paragraph 736

⁹⁷ Appendix 2

Formal Minutes

Tuesday 7 December 2010

Members present:

Mr Kevin Barron, in the Chair

Sir Paul Beresford

Mr Geoffrey Cox

Tom Blenkinsop

Matthew Hancock

Annette Brooke

Heather Wheeler

Draft Report (Sir John Butterfill, Mr Stephen Byers, Ms Patricia Hewitt, Mr Geoff Hoon, Mr Richard Caborn and Mr Adam Ingram), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 15 read and agreed to.

Paragraph 16 read, amended and agreed to.

Paragraphs 17 to 46 read and agreed to.

Paragraph 47 read, amended and agreed to.

Paragraphs 48 to 72 read and agreed to.

Paragraph 73 read, amended and agreed to.

Paragraphs 74 to 76 read and agreed to.

Five Papers were appended to the Report.

Resolved, That the Report, as amended, be the Ninth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Tuesday 14 December at 9.30 am