



House of Commons  
Committee on Standards and  
Privileges

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**Review of the Code of  
Conduct**

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**Nineteenth Report of Session 2010–12**

*Report and Appendix, together with formal  
minutes*

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## The Committee on Standards and Privileges

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

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### Committee staff

The current staff of the Committee are Eve Samson (Clerk), Lloyd Owen (Second Clerk) and Miss Christine McGrane (Committee Assistant).

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# Review of the Code of Conduct

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## Introduction

1. In November 2002 the Committee on Standards in Public Life (CSPL) recommended that:

(a) In each Parliament, the Parliamentary Commissioner for Standards should initiate a review of the Code of Conduct and Guide to the Rules.

(b) The Parliamentary Commissioner for Standards should recommend any amendments to the Code and the Guide to the Committee on Standards and Privileges.

(c) The Committee on Standards and Privileges should consult on amendments to the Code and the Guide with relevant external bodies.

(d) Following this consultation, the Committee on Standards and Privileges should recommend any amendments to the Code and the Guide to the House.

(e) The House of Commons should debate the recommendations of the Committee on Standards and Privileges in a timely fashion.<sup>1</sup>

The Code was last fully revised in 2005. The Committee's Report appeared on 4 April, and the House agreed the new Code on 13 July 2005. While the then Commissioner consulted widely on his proposals, the Committee did not. Instead it recommended that the proposals should be considered by the House in time for the new Code to come into effect at the start of the next Parliamentary Session or, if a Dissolution intervened, that they should be considered within three months of the meeting of the new Parliament.<sup>2</sup>

2. No review of the Code was initiated in the last Parliament. By the time a review would have been appropriate, the expenses scandal had emerged. The Commissioner and the Committee decided that review of the code was inappropriate since, as the Commissioner's consultation document says:

it seemed right to give Members of the new Parliament, and others, an opportunity to review the Code afresh in the light, among other things, of the lessons of the last Parliament and today's expectations and standards.<sup>3</sup>

3. The Commissioner began consultation on a revision to the Code on 7 March 2011. He reported to us on that consultation, and on his recommendations on 7 September, and 12 October 2011. Details of the Commissioner's consultation and those who responded to it are in the memorandum attached to this Report. The consultation responses, which have been provided to us, are published on the Commissioner's webpages. The Guide to the

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1 Eighth Report From the Committee on Standards in Public Life, *Standards of Conduct in the House of Commons*, Cm 5663, p 24

2 Fourth Report from the Committee on Standards and Privileges of Session 2004–05, *Review of the Code of Conduct*, HC 472

3 <http://www.parliament.uk/documents/pcfs/review-of-code-of-conduct-2011/Review-of-the-code-of-conduct-2011.pdf>

Rules relating to the Conduct of Members is being reviewed separately, and we expect to report on it in due course.

4. The existing Code of Conduct has provided a valuable framework for parliamentary standards, but there are several areas where it could usefully be clarified. Given the time which has elapsed since the last revision of the Code, and the Commissioner's consultation exercise, to which the CSPL itself responded, we have decided a further round of consultation will unnecessarily delay revision of the Code.

### **The Commissioner's proposals**

5. The memorandum attached to this Report sets out both the responses to the consultation and the Commissioner's conclusions extremely clearly. In most cases, the Commissioner's proposals clarify existing interpretation and practice, or improve the structure of the Code. The first four sections of the Code set out, respectively, the Purpose of the Code, the Scope of the Code, Public Duties of Members and General Principles of Conduct. Part V sets out Rules of Conduct. The Commissioner's changes remove current confusion between areas where the Code is primarily aspirational, and the rules which the Commissioner and the Committee will adjudicate. The Commissioner also suggests changes to the final section of the Code to provide a high-level outline of the disciplinary process. Given the comprehensiveness and clarity of the accompanying memorandum, this Report does not cover every detail of the changes the Commissioner proposes, but draws attention to matters which we consider particularly significant.

### ***Conduct which damages the reputation and integrity of the House of Commons***

6. Paragraph 2 of the Code currently specifies that the Code does not "seek to regulate the conduct of Members in their purely and private and personal lives." The Commissioner recommends a slight but significant change to the wording:

the Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.

This would restrict the House's ability to look at a Member's wider public life, which currently falls within the scope of the Code. Nevertheless, the new formulation would allow the Commissioner to decide to investigate and the House to intervene in extreme cases. This change is linked to others later in the Commissioner's recommendations. Paragraph 15 of the Code currently stipulates that:

Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never and do take any action which will bring the House of Commons or its Members generally into disrepute.

As the Commissioner says, the first part of this is aspirational, the second contains a prohibition against particular behaviour. The Commissioner recommends that the

aspirational part of the paragraph be subsumed into early sections of the Code, and the rule of conduct be redrafted as follows:

Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its members generally.

In addition, paragraph 56 of the memorandum makes it clear that while the way in which a Member handles constituency matters is not normally a matter for the Code there could be exceptional cases where their conduct in this regard could also damage the reputation of the House as a whole, and the House might wish to take action.

7. We expect this proposal is most likely to divide colleagues, and we have considered it particularly carefully. While parallels have been drawn between the conduct of Members and the conduct of professionals such as doctors or lawyers, such parallels are misleading. Members have a representative function. They are first of all selected by their party, and then by the electorate. While constituency case work is becoming an increasingly important part of a Member's role, as the Commissioner says:

Each constituency is different in its character, history and expectations. The interests of different constituents may conflict. Time and resources are not unlimited. Each Member has to come to his or her own judgement on how best to serve his or her constituency and those who live in it. Within our democracy, political parties have a significant role in deciding on the party's candidate for the constituency, including whether the sitting Member should run again. But ultimately, it is for the electorate, and not the House, to decide on the promises and the performance of their various candidates, including any sitting Member.<sup>4</sup>

8. Nor is there an easy line between private and political life. In the past Members have refused to pay road tax or the community charge—both ostensibly private matters—to make a political point, and on occasion have been imprisoned for it.<sup>5</sup> In all but the most extreme circumstances it is for the party and the electorate to judge a candidate's behaviour.

9. Nonetheless, the public increasingly expect that in extreme circumstances action will be taken by the House. Paragraph 15 of the current code already contains a prohibition on conduct which will bring the House or its members into disrepute. We draw the House's attention to the Commissioner's analysis:

I consider that the House should continue to be able to come to a view on such potentially serious damage to the reputation of Parliament, on the basis of the Commissioner's findings following a full inquiry. Successive Commissioners have made clear that the threshold of such an inquiry is high. The conduct of a Member may be unwise and may indeed reflect badly on him or her, but that alone does not of itself damage the integrity and reputation of Parliament or of its Members

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4 Appendix, paragraph 55

5 See, for example, CJ (1986–87) 138; CJ (1987–88) 93; CJ (1990–91) 536

generally. The rule in paragraph 15 should apply only to conduct which has those effects.<sup>6</sup>

On that basis, we accept the Commissioner's recommendation that cases in which a Member's conduct in private or wider public life is so extreme that it damages the reputation of the House should fall within the Code. We stress that, like the Commissioner, we do not think the Committee or the House should be drawn into judging a Member's purely private and personal relationships.<sup>7</sup>

10. We also accept the Commissioner's recommendation that it could be appropriate to take action if a Member's relationship with constituents resulted in behaviour which significantly damaged the reputation of the House. Again, we draw the House's attention to the Commissioner's memorandum which makes clear that this would only be in extreme circumstances:

The only circumstances where the House may wish to adjudicate on a Member's conduct in their constituency is the wholly exceptional case where there is clear evidence that the Member's conduct has been so serious and blatant as to cause significant damage to the reputation of the House. A Member's alleged failure to respond to a constituent or meet their wishes would fall far short of such a threshold.<sup>8</sup>

### ***Personal responsibility for use of resources***

11. In its 2009 Report on *MPs' Expenses and Allowances*, the Committee on Standards in Public Life set out principles which should underpin the system. One of these was "Members of Parliament should not exploit the system for personal financial advantage, nor to confer an undue advantage on a political organisation."<sup>9</sup> The new paragraph 15 proposed by the Commissioner (which clarifies existing paragraph 14) makes clear that Members are personally responsible for the extent to which their use of expenses allowances etc is in accordance with the rules. It stipulates:

Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties and never otherwise confers any benefit—whether personal, financial or political—on themselves or anyone else.

This is not a new rule. The old Green Book contained the principle that "claims cannot relate to party political activity of any sort, and nor must any claim provide a benefit to a party political organisation."<sup>10</sup> The current text of the Members' Handbook says that:

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6 Appendix, paragraph 80

7 See Appendix, paragraph 34

8 Appendix, paragraph 56

9 Twelfth Report from the Committee on Standards in Public Life, *MPs' expenses and allowances: Supporting Parliament, safeguarding the taxpayer*, Cm 7724, November 2009, p 9

10 House Of Commons, *The Green Book: A guide to Members' allowances*, March 2009, p 7



These facilities and services are provided in order to assist Members in their parliamentary work. They should be used appropriately, in such a way as to ensure that the reputation of the House is not put at risk. They should not be used for party political campaigning or private business activity.<sup>11</sup>

12. We support the principle that the Code should make it absolutely clear that all facilities are provided for parliamentary purposes and must not be abused. However the wording of the stipulation requires careful consideration. As the CSPL recognised (following the formulation of the Modernisation Committee in 2007), a Member's role is various:

- Representing and furthering the interests of their constituency.
- Representing individual constituents and taking up their problems and grievances.
- Scrutinising and holding the Government to account and monitoring, stimulating and challenging the Executive.
- Initiating, reviewing and amending legislation.
- Contributing to the development of policy whether in the chamber, committees or party structures and promoting public understanding of party policies.
- Supporting their party in votes in Parliament (furnishing and maintaining the Government and Opposition).<sup>12</sup>

The CSPL also considered that such activities should be supported:

2.5 The expenses system needs to ensure that MPs are provided with reasonable levels of support in all these areas. The regime must also have sufficient flexibility to allow for the fact that individual MPs can give different emphases to different aspects of the role over time. The ability of MPs to determine for themselves how best to do their job is an important aspect of parliamentary privilege, a doctrine which is a key tenet in our unwritten constitution.<sup>13</sup>

13. The most difficult boundary is that between political and parliamentary activities. This Committee and its predecessors have recommended sanctions on Members who have used resources provided for Parliamentary work for party purposes. Nonetheless, all MPs are politicians, and the list of activities implicitly endorsed by the CSPL includes political activities.

14. The fact that a Member's parliamentary activities are frequently at least partly political in nature does not mean that the Code should permit any use of public resources to support political activity. As the Commissioner's memorandum states, a Member has suggested that the rules be amended to recognise Members' roles on the Opposition Front Bench, for example, to permit the Opposition Front Bench to use House resources, such as

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11 <http://www.parliament.uk/documents/foi/members-handbook.pdf>, p 5

12 CSPL, Members' Expenses and Allowances, p 31

13 CSPL, Members' Expenses and Allowances, p 31

stationery, in discharging that role, which would not be permissible for other Members. The Commissioner concluded:

The Code is consistent throughout with the principle that it should apply equally to all Members. I endorse this principle. It is for that reason that I do not support the proposal that the Code should be applied differently to Members who are on the Opposition Front Bench, just as it is not applied differently to Members who are also Government Ministers. Any change to the detailed rules in relation to expenses and facilities to meet the Member's objective is a matter for others to consider. A change to the Code for this purpose is, in my judgment, neither desirable nor necessary.

15. We agree with this conclusion. We consider that the boundary between political and parliamentary aspects of a Member's work is currently appropriate, and further agree with the Commissioner that the Code should apply to all Members equally, whether they are front benchers or back benchers.

16. Although there is no difference between the Commissioner and the Committee on the underlying scope of the rules on use of allowances and facilities, we are anxious that the wording of the Code should be as clear as possible. The formulation proposed by the Commissioner is brief and elegant. It states that the use of public resources should support parliamentary activities and "never *otherwise*" confer an advantage. That wording recognises that it is possible that parliamentary duties might incidentally confer a "personal, financial or political" advantage which would not be prohibited by the Code (for example, a well-received parliamentary speech might be used in campaigning in a constituency). Nonetheless, given the inherently political nature of Parliament, political benefits are slightly different from personal or financial ones, and we believe it would be clearer if the Code made more of a distinction between these types of advantage. We recommend that the revised Code uses a wording closer to that of the CSPL:

Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.

### **Recall**

17. "Our programme for Government" stated:

We will bring forward early legislation to introduce a power of recall, allowing voters to force a by-election where an MP is found to have engaged in serious wrongdoing and having had a petition calling for a by-election signed by 10% of his or her constituents.<sup>14</sup>

In his response to the consultation, the Leader of the House, Sir George Young, said:

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<sup>14</sup> [http://www.direct.gov.uk/prod\\_consum\\_dg/groups/dg\\_digitalassets/@dg/@en/documents/digitalasset/dg\\_187876.pdf](http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_187876.pdf), p 27

The Coalition Programme for Government includes a commitment to bring forward legislation to introduce a power of recall, allowing voters to force a by-election where a Member is found to have engaged in serious wrongdoing, and where 10% of his or her constituents have signed a petition calling for a by-election. The Deputy Prime Minister will be publishing detailed proposals shortly, for pre-legislative scrutiny, and it is likely that the definition of “serious wrongdoing” will include certain breaches of the Code of Conduct. When the legislation is passed, the Code will therefore take on a new significance as breaches will be one of the triggers for constituents to exercise their right to seek to recall their MP. In this context, there might then be a case for providing some guidance in the Code itself about the type of breach which might be regarded as falling at the more serious end of the spectrum.<sup>15</sup>

The Commissioner has concluded that there is no need for a definition of “serious wrongdoing” at this stage, since:

As the Leader of the House recognised, it is too soon to introduce any such provision in the Code, since Parliament has yet to consider the relevant legislation. I would not expect, however, that it would be necessary or desirable to seek to define “serious wrongdoing” in the Code itself, since so much would depend on the circumstances of each case.<sup>16</sup>

Given that the Government’s proposals for recall have not yet been published, let alone considered by the House, we agree that it is too early to attempt to reflect them in any revision to the Code. As the Commissioner makes clear, it is possible that revision of the Code will not be necessary or desirable even when provisions for recall are in place. We will consider this matter further when it is appropriate to do so.

### Proposals rejected by the Commissioner

18. In Section J of the memorandum, the Commissioner considers proposals put to him, which he has rejected. We find his reasoning compelling in each case. We draw the House’s attention to the fact that one of these proposals was made by the Committee on Standards in Public Life. The CSPL first recommended that failure to abide by a recommendation from the Advisory Committee on Business Appointments (ACOBA) should be a breach of the Code in its Report on *MPs’ Expenses and Allowances*, and urged this again in evidence to the Commissioner.

19. Currently, the sanction for disregarding ACOBA’s advice is the same for MPs as it is for all other ex-Ministers; namely, publicity. As ACOBA’s guidelines say:

When a former Minister takes up a post which the Advisory Committee have scrutinised, the Committee’s advice will be available for publication. The Advisory Committee will produce an annual report, summarising the cases with which they have dealt in the previous year.<sup>17</sup>

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15 Published on the Commissioner’s webpages

16 Appendix, paragraph 175

17 <http://acoba.independent.gov.uk/media/acoba/assets/guidelines.pdf>, p 2

In addition, ACOBA make clear “If asked whether our advice has or has not been sought about a particular appointment accepted by a former Minister, we provide that information”.<sup>18</sup> The intense scrutiny of MPs by the press, their political opponents and the electorate means that the sanction of adverse publicity is already likely to be more significant than it is for others who take up business appointments.

20. The CSPL proposal would mean that ex-Ministers who remained in the House would be subject to a different and more stringent regime than others. We do not believe this would be right. The Government should consider bringing forward legislation to make ACOBA’s recommendations binding. We do not believe it is appropriate for the House to take action in relation to its Members alone, particularly since they are already more susceptible to the current informal sanctions than are other ex-Ministers or former Crown Servants.

**21. We attach as an Annex a draft of the revised Code of Conduct in the terms in which we commend it to the House for approval. Given the time which has elapsed since the last revision of the Code, we recommend these proposals be considered by the House within three months.**

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18 ACOBA, Eleventh Report 2009–10, paragraph 24

# Annex: Revised Code of Conduct

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## *As recommended by the Committee on Standards and Privileges*

### ***I. Purpose of the Code***

1. The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the House, their constituents and the public at large by:
  - a) establishing the standards and principles of conduct expected of all Members in undertaking their duties;
  - b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and in so doing
  - c) ensuring public confidence in the standards expected of all Members and in the commitment of the House to upholding these rules.

### ***II. Scope of the Code***

2. The Code applies to a Member's conduct which relates in any way to their membership of the House. The Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.

### ***III. Duties of Members***

4. By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.
5. Members have a duty to uphold the law, including the general law against discrimination.
6. Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.
7. Members should act on all occasions in accordance with the public trust placed in them. They should always behave with probity and integrity, including in their use of public resources.

#### ***IV. General Principles of Conduct***

8. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office.<sup>19</sup> These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct in Part V of the Code.

##### ***“Selflessness***

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

##### ***Integrity***

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

##### ***Objectivity***

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

##### ***Accountability***

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

##### ***Openness***

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

##### ***Honesty***

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

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19 Cm 2850-I, p 14

## Leadership

Holders of public office should promote and support these principles by leadership and example.”

## V. Rules of Conduct

9. Members are expected to observe the following rules and associated Resolutions of the House.

10. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

11. No Member shall act as a paid advocate in any proceeding of the House.<sup>20</sup>

12. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.<sup>21</sup>

13. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members’ Financial Interests. They shall always be open and frank in drawing attention to any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.<sup>22</sup>

14. Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. Such information must never be used for the purpose of financial gain.

15. Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.

16. Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

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20 Resolution of 6 November 1995

21 Resolutions of 2 May 1695, 22 June 1858, and 14 July 1947 as amended on 6 November 1995 and 14 May 2002

22 Resolutions of the House of 22 May 1974 as amended on 9 February 2009, 12 June 1975 as amended on 19 July 1995 and 9 February 2009, 12 June 1975 as amended on 9 February 2009, 17 December 1985 as amended on 9 February 2009, 6 November 1995 as amended on 14 May 2002 and 9 February 2009, 13 July 1992, and 30 April 2009 as amended on 7 February 2011

## ***VI. Upholding the Code***

17. The application of this Code shall be a matter for the House of Commons, and particularly for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.

18. The Commissioner may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code. Members shall cooperate, at all stages, with any such investigation by or under the authority of the House. No Member shall lobby a member of the Committee in a manner calculated or intended to influence its consideration of an alleged breach of this Code.

19. The Committee will consider any report from the Commissioner to it and report its conclusions and recommendations to the House. The House may impose a sanction on the Member where it considers it necessary.



# Appendix: Memorandum from the Parliamentary Commissioner for Standards

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## A. Introduction

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This memorandum sets out my conclusions from my review of the Code of Conduct for Members of Parliament.

I initiated my review on 7 March 2011 when I published a consultation paper inviting views on the scope, purpose and content of the Code. The closing date for responses was 31 May 2011. I received sixteen responses from Members, former Members, the Committee on Standards in Public Life and some other individuals and institutions. A list of all the consultation respondents is at Annex 3. I propose to make available the consultation responses once the Committee on Standards and Privileges has considered this memorandum and prepared its own report to the House.

I was very grateful for the responses I received. I have taken account of them all and refer to some aspects of them in the analysis which follows. I have reflected also on some three and half years as the Parliamentary Commissioner, considering a wide range of complaints and reading the correspondence and noting the concerns of those who have contacted me. Ultimately, however, my role is to come to my own conclusions on the scope and substance of the Code and report my recommendations to the Committee. This memorandum fulfils that remit. The Committee will wish to consider my memorandum before coming to its own conclusions and deciding what recommendations to make to the House for any changes to the Code.

While I consider that the Code of Conduct generally remains relevant and apposite in the current Parliament, I propose some refinements and amendments to clarify its purpose and effect and to ensure it continues to meet public expectations. The aim is to help Members in following the requirements of the Code and to help constituents and others in understanding and having confidence in the standards of conduct which are expected of all Members.

Following the broad framework set out in my consultation paper, I consider first the structure of the Code before analysing each of the parts of the current Code, taking account of the consultation responses and recommending any changes I consider would be desirable.

I enclose at Annex 2 a revised Code of Conduct reflecting the outcome of my review which I invite the Committee to consider.

John Lyon CB  
Parliamentary Commissioner for Standards

12 October 2011

## B. Structure of the Code

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### *Background*

1. The Code of Conduct for Members of Parliament is short, taking up little more than three pages and 19 paragraphs, and is currently set at a relatively high level, including principles and rules. It establishes briefly the public duties of Members; it iterates the general principles of conduct established by the Committee on Standards in Public Life; and gives some eight high-level rules of conduct, including the obligation to register and declare interests. Parts I to IV, therefore, set out the general aspirational framework of the Code, followed by Parts V and VI which provide the high-level rules against which Members' conduct can be judged as provided in Part VII. Much fuller rules and guidance supporting the Code are provided separately in the Guide to the Rules and in the more detailed rules of the House.

2. Other jurisdictions have adopted different approaches to their Codes. Some, including the National Assembly for Wales and the Northern Ireland Assembly, largely follow the United Kingdom precedent and keep their Code relatively short.<sup>1</sup> Others, in particular the Scottish Parliament, have produced a single Code which covers both principles and more detailed provisions, which together run to some 100 pages.<sup>2</sup>

3. **Question 1:** Should the Code of Conduct continue to set out only the high-level principles for Members' conduct, or should it provide a detailed rules-based Code?

4. **Responses to consultation:** All the respondents supported a Code which set out high-level principles.

5. The Committee on Standards in Public Life said that a principles-based approach was needed to set the framework by which MPs make decisions about how to act. The Chair of Standards for England said that research showed that a system based on too many rules could be counterproductive. His experience was that a principles-based Code worked more effectively than one which was detailed and rules-based. He said a balanced Code, which was driven by strong principles of behaviour and was not too rules-driven or prescriptive, could help to foster a strong culture of ethical behaviour and help our elected representatives to meet the high standards of behaviour that were expected of them by the general public. He also said there was an argument that the Code of Conduct for Members should aspire to be the standard by which all in public office expect to be judged. The Northern Ireland Ombudsman and Interim Commissioner for Standards believed a detailed rules-based approach would be cumbersome and bureaucratic and could unnecessarily frustrate both those subject to the rules and those seeking to interpret and advise on them. He said such an approach would remove the exercise of personal judgment by Members when in fact they had been expected to exercise that judgment on

1 <http://www.assemblywales.org/codeofconduct.pdf>, [http://www.niassembly.gov.uk/reports/code\\_of\\_conduct.htm](http://www.niassembly.gov.uk/reports/code_of_conduct.htm)

2 <http://www.scottish.parliament.uk/msp/conduct/index.htm>

much more significant matters affecting the nation.

6. The Parliamentary Labour Party commented that the Code should continue to be a set of high-level principles for Members' conduct. It also said that the way in which the Commissioner interpreted the Code must be documented and consistent. The Leader of the House believed that the House should retain a principles-based Code rather than move to a rules-based one. He said the expenses scandal had exposed the weakness of over-reliance on a system. He also said that the scandal had demonstrated clearly that the public had been far more interested in ensuring that Members conducted themselves in a spirit of selflessness and public service than whether or not they had abided by the letter of the rules. One Member commented on the challenges of interpretation of a detailed rules-based Code.

7. The Public Standards Commissioner for Scotland felt that it would be appropriate for a Code of Conduct to embrace both principles and rules of conduct. In his view, the principles should be used for guidance and interpretation in applying the rules, but these should not by themselves be enforceable. He felt that detailed rules should prescribe what was required with clarity and precision so that Members could clearly understand what their obligations were.

8. A former Member said that he thought the Code should be brief and in two parts with an annexe. He said the first part should be a simple restatement of the seven principles of public life with an introduction emphasising their importance and the inclusion of reminders about politeness and good manners. The second should list the rules and conventions about behaviour within the House of Commons, including explanations of the scope and limitations of parliamentary privilege. The annexe should be the Back Bencher's Ten Commandments as proposed by Mr Paul Flynn MP.<sup>3</sup>

## Discussion

9. I see no need to suggest changing the structure of the Code. Membership of the House of Commons is at the apex of our democratic system. It is right, therefore, that there should be a statement of the principles of conduct applicable to all Members, and a clear and accessible statement of the rules of conduct which underpin those principles and for which Members can, if necessary, be held to account.

10. Some areas of conduct are sufficiently clear to stand without further elaboration. But there will be other areas where more detailed provisions are necessary in order to assist Members in meeting their obligations under the Code. I consider that it is reasonable for there to be a separate statement of these, including the Guide to the Rules and rules on the use of House facilities, as long as they relate clearly to the overarching principles and the general rules set out in the Code, and do not themselves seek to go outside the scope of the Code. I agree with the Parliamentary Labour Party that the Code should be interpreted with consistency. The interpretation is documented in the Commissioner's memoranda,

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3 *Commons Knowledge: How to be a Backbencher*, Paul Flynn, 1997

and the Committee's reports to the House, but I am always ready to assist the House in promulgating the findings further if it considers that necessary.

### ***Conclusion***

**11. I recommend that the Code continues to establish broad high-level principles in relation to the main areas of a Member's conduct, and provides a high-level statement of the specific rules to which Members will be held to account, leaving the detail to be set out separately as required.**

## C. Purpose of the Code

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### **Background**

12. The current purpose of the Code is set out as follows:

***“I. Purpose of the Code***

*1. The purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the House, their constituents and the public at large by:*

*a) Providing guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing*

*b) Providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those duties.”*

13. **Question 2:** Should there be revisions to the expression of the purpose of the Code so as better to reflect its intentions, including whether it correctly captures the purpose of the Code and whether it should make clearer that it goes beyond guidance to setting out rules?

14. **Responses to consultation:** The respondents largely felt the purpose of the Code should remain as it currently stands.

15. The Parliamentary Labour Party said that the Code was well-structured around high-level principles and the current wording on the purpose of the Code reflected that well. One Member said that clarity was always beneficial but the outcome must be to seek to avoid wrongdoing rather than be prescriptive, restrictive and inimical to Members being able to do their job in a responsive, flexible and common sense manner.

16. The Leader of the House, who supported the current formulation of the purpose, said that although the Code was the foundation of the House’s standards regime, to describe it as a “*regulatory framework*” would send the wrong message, namely that it was a burden on Members rather than a set of principles which they should all value and aspire to follow. He also said that the Code would have been more effective in guiding Members’ conduct if it had been phrased in terms of positive standards rather than negative interdictions.

17. The Northern Ireland Ombudsman and Interim Commissioner for Standards said he would not make the Code ‘regulatory’ rather than ‘guidance’ but equally saw benefit in emphasising that the guidance could not be set aside lightly. The Public Standards Commissioner for Scotland considered that there should be clarity of expression whenever the Code set out provisions which Members were required to follow and where sanctions may be imposed if they did not comply.

## Discussion

18. I consider that the statement of the purpose of the Code as currently drafted is generally satisfactory but could usefully be clarified in some respects. I accept that the Code is properly directed only to Members and that it rightly identifies the obligations on Members as being to the House, their constituents and the wider public. But the way in which the Code assists Members in the discharge of these obligations—its purpose—could be more clearly and logically expressed. I suggest that the purpose is threefold: first, to establish the standards and principles of conduct expected of all Members; second, to set the high level rules underpinning these; and third, in doing both of these, to ensure public confidence in the particular standards which can reasonably be expected of Members and which the House can be expected to uphold. The Code is therefore partly aspirational and partly adjudicable. Taken together those parts are intended to ensure public confidence. A slight redrafting of Part I of the Code would, in my judgment, usefully make this clearer.

## Conclusion

19. I recommend, therefore, that Part I of the Code be amended as follows:

### *I. Purpose of the Code*

*The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the House, their constituents and the public at large by:*

- a) establishing the standards and principles of conduct expected of all Members in undertaking their duties;*
- b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and in so doing*
- c) ensuring public confidence in the standards expected of all Members and in the commitment of the House to upholding these rules.*

**20. I recommend that Part I of the Code be amended to reflect more clearly and directly its intentions to: establish the standards and principles of conduct, set the rules and ensure public confidence.**

## D. Scope of the Code

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### Background

21. The scope of the current Code is defined as follows:

**“II. Scope of the Code**

2. *The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.*

3. *The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.”*

22. **Question 3:** Should the Code apply to all aspects of a Member’s public life, or only those aspects related in some specific way to their position as a Member of Parliament?

23. **Responses to consultation:** The respondents broadly felt that the Code should only apply to those aspects of a Member’s public life related in some way to their position as a Member of Parliament

24. The Leader of the House said that he believed that the Code should apply only to those aspects of Members’ public life which arose from or were closely connected with their role as Members of Parliament. He said that extending the Code to cover all aspects of a Member’s public conduct could in particular lead to a Member of Parliament who was a local councillor, lawyer, doctor or other professional being required to follow two codes of conduct which might not always be consistent with each other. The Parliamentary Labour Party also noted that there were rules of conduct for other professions which the Member would be subject to in these cases. One Member said it was hard to see how the Code could apply to all aspects of a Member’s public life as this would be virtually impossible to monitor, police or adjudicate on.

25. The Public Standards Commissioner for Scotland did not consider that it was self-evident that the Code should be extended to cover public duties generally. He said that Members were elected to represent their constituency in Parliament and they should be accountable for the work that they carried out in that regard. He believed the Code should not apply to conduct relating to other than their parliamentary responsibilities. He also noted that it might be difficult to define “*public duties*” with any clarity or precision.

26. On the other hand, the Northern Ireland Ombudsman and Interim Commissioner for Standards believed that the Code should extend to a Member’s wider public life. He said that the key issue for him was whether the Member’s action reflected adversely on Parliament.



27. **Question 4:** Should the scope of the Code extend to some aspects of a Member's private and personal life. If so, how should that be expressed in the Code?

28. **Responses to consultation:** The respondents did not support an extension of the Code into aspects of a Member's private and personal life.

29. The Chair of Standards for England said that an important consideration when deciding whether or not to cover a Member's private or personal life was their right to a private life under the Human Rights Act 1998. He said that although there was an argument that, in the eyes of the public, an MP was always an MP, whether they were sitting in the House or "off-duty" they remained entitled, as the rest of the population, to a private life and it would be difficult to see how the Code could be extended to that private life without impinging on that right. He also said that any interference with the right would need to have a clear legal basis, a clear legitimate aim and be proportionate in its application to achieve that aim. The Public Standards Commissioner for Scotland said that the Code should not cover the conduct of Members in their private and personal lives.

30. The Leader of the House said that he was not aware of any recent cases where a Member's conduct in his or her purely private and personal life had been so outrageous that the House or the general public would have wanted action to be taken against the Member. He also said that there was a risk that an extension in this way could be used to justify intrusive and prurient media interest in Members' private lives, on the basis that if the House chose to concern itself with Members' personal lives—however sparingly—then there could be no limits to the media doing likewise. The Parliamentary Labour Party said that to extend the Code into aspects of a Member's private and personal life would take the Code of Conduct into the realms of a Code of Morals.

31. One former Member said that any extension of the Code into private lives would, in the not too long term, put serious people off coming into Parliament. She said that any extension of the Code into private lives would lead, by default, to a list of actions which were acceptable, for example where a complaint was not inquired into. This would then be used to suggest that Parliament had dual standards. Another Member said that it was not the business of Parliament to meddle in the private lives of others.

### ***Discussion: application to public and private lives***

32. There is a potential anomaly in applying a Code of Conduct which is specifically related to the work of a Member of Parliament to all other aspects of their public life. The specifics of the Code may well not be applicable. Other codes or regulations may apply. Where Members have a public life which is wholly unrelated to their membership of the House, for example because of a profession which they continue to practice alongside their parliamentary duties, then they should be expected to abide by the standards of those professions and be answerable to any relevant regulator or disciplinary body. In my judgment it would not be reasonable, or practical, for them also to be answerable to the House for that conduct, particularly if the two codes set rules or standards which might not be identical because each had been produced for a different purpose.

33. The current Code includes a rule which prevents a Member bringing the House into disrepute (paragraph 15 of the Code). But that rule cannot be applied when the relevant conduct falls outside the scope of the Code. As presently drafted this Code does not apply to a Member's purely private and personal life (and, as I discuss below at paragraphs 54 to 57, the House has decided it should not apply to the way a Member handles an individual case, including that of a constituent).

34. Members, like anybody else, are entitled to a private life. The conduct of their personal and private lives should not normally be subject to regulation or oversight by the House or, through the complaints process, by the Commissioner. That would be an unjustifiable invasion of a Member's privacy and right to a family life. But the position of a Member of Parliament is, like some other roles, more than simply a job or career. It is a way of life. In that sense, a Member of Parliament is never off duty. Once elected, a serving Member is likely always to be seen as a Member of Parliament, with the duties and obligations that go with that position, wherever they are and whatever they are doing.

35. There is a tension between these two considerations. I consider that the Code should recognise this tension and provide a reasonable means for it to be resolved. I consider that it should be made explicit that the Code should not normally apply to a Member's public life where it is not related in any way to their membership of the House. It should also not normally apply to his or her private and personal life. I recognise the difficulties, identified by the respondents, in making any exception to this provision. But I consider that there are potentially greater difficulties for the integrity and reputation of the House—and for public confidence in Parliament and its institutions—if, despite the extremity of the conduct, the House is seen to be powerless to defend its reputation. I consider, therefore, that the Code should recognise that there may come a point where the Member's conduct in certain extremely limited circumstances is so serious and so blatant that it causes significant damage to the reputation of the House. In my judgment it would be potentially even more damaging to the reputation of the House and the public's confidence in the Code of Conduct (which is one of its key purposes) if the House were unable to take action to express its disapproval and uphold its standards in such circumstances. But the conduct would need to be so serious and so blatant as to make it imperative that the House be given the opportunity to consider the damage done to the reputation and integrity of the House of Commons as a whole or of its Members generally. And the House should not consider any damage done to the reputation and integrity of the individual Member. That would be a matter not for the House, but for the electorate to judge.

36. I consider this a proportionate and necessary response to the problem I have identified in the need always to sustain the integrity of Parliament. I recognise the concern that the media might be thus encouraged to take a closer and more prurient interest in Members' private lives. But Members' private lives are already subject to intense media coverage, and it is difficult to see that this limited change to the Code would greatly increase that pressure. I consider it right therefore that a commitment to preventing significant damage to the reputation and integrity of the House of Commons as a whole or of its Members generally should be incorporated in both the aspirational and adjudicable parts of the Code. I discuss the reference in the adjudication section of the Code at paragraphs 129 to 133 below.

## Conclusion

37. I recommend that paragraph 2 of the Code be amended as follows:

*The Code applies to a Member's conduct which relates in any way to their membership of the House. The Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.*

**38. I recommend that the scope of the Code be amended to reflect that it does not seek to regulate Members' conduct in their purely private and personal lives, or their wider public lives unless that conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.**

## Discussion: other obligations

39. The second part of the scope of the Code is paragraph 3, as follows:

*"3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code."*

40. I consider that paragraph 3 of the Code should remain as it is, making clear that it is complementary to both the Ministerial Code, and the procedural rules of the House and the rulings of the Chair. By virtue of this provision, it follows that complaints against Members that they are in breach of the Ministerial Code, and complaints against Members for alleged breaches of procedural rules, including conduct in the Chamber, fall outside the complaints remit established under the Code. I consider in paragraphs 156 to 165 below a suggestion which I do not support, that part of the Ministerial Code in relation to business appointments on leaving office be enforced by the House.

## Conclusion

**41. I recommend that no change is made to paragraph 3 of the Code which rightly places matters relating to other procedural rules of the House and, where relevant, the Ministerial Code, outside the scope of this Code.**

42. **Issue:** a Member suggested that the rules be amended to recognise Members' roles on the Opposition Front Bench, for example, to permit the Opposition Front Bench to use House resources, such as stationery, in discharging that role, which could not be permissible for other Members.

### **Conclusion**

43. The Code is consistent throughout with the principle that it should apply equally to all Members. I endorse this principle. It is for that reason that I do not support the proposal that the Code should be applied differently to Members who are on the Opposition Front Bench, just as it is not applied differently to Members who are also Government Ministers. Any change to the detailed rules in relation to expenses and facilities to meet the Member's objective is a matter for others to consider. A change to the Code for this purpose is, in my judgment, neither desirable nor necessary.

## E. Public Duties of Members

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### Background

44. The public duties of Members are set out as follows:

#### **“III. Public Duties of Members**

4. *By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.*

5. *Members have a duty to uphold the law, including the general law against discrimination, and to act on all occasions in accordance with the public trust placed in them.*

6. *Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.”*

45. **Question 5:** Should there be general duties in respect of a Member to their constituents? If so, how should these be phrased?

46. **Question 6:** Should there be a fuller codification of any such duties?

47. **Question 7:** Should a Member who failed in these obligations to their constituents be subject to disciplinary sanction in the House?

48. **Responses to consultation:** Most respondents were opposed to the Code making further provisions for a Member’s general duties to constituents, or to a fuller codification of such duties, although a minority did express some support for some extension of the Code in this area.

49. The Parliamentary Labour Party noted the “*special duty*” to constituents in paragraph 6 of the Code and said that an obligation of service to individual constituents would be difficult for the Code to direct or for the Commissioner to interpret. They also said that the extent to which a Member of Parliament successfully fulfilled his or her obligations to constituents was judged by the electorate on polling day. In their view disciplinary sanctions in the House would not be an appropriate response to a Member’s alleged failure to fulfil his or her obligations to constituents.

50. One Member said that it was the job of constituents (and constituency organisations) to hold Members of Parliament to account. A former Member echoed this and said that it was to his or her constituents that a Member of Parliament should answer, “*not to some second-guesser who has never exposed himself to an election in his life.*” She also said that her consistent response to protesting constituents had been “*You have a remedy in the ballot box*”. Another Member said that individual constituent’s views and interests might well be directly contradictory to other constituents, they might be wrong or vexatious, they might be obsessive, but they might also be right. He said it was not the position of “*an unelected*

*bureaucrat*” to have any role in adjudicating on them. In his view the longstanding democratic principle that the House should not intervene between the Member and his or her constituents should remain.

51. The Northern Ireland Ombudsman and Interim Commissioner for Standards could not see that it would be appropriate to bring within the remit of the Code cases where an individual was dissatisfied with how a Member had dealt with their case. The Public Standards Commissioner for Scotland said that the Code for Members of the Scottish Parliament required those Members to be accessible to those they represented and to represent their interests conscientiously. This requirement could not, however, be extended into an obligation to do what the constituent sought of the Member. He said that providing a Member had made him or herself available to the constituent and had dealt with the issue raised reasonably conscientiously, there should be caution about applying the Code to the handling of issues raised by constituents.

52. Democracy Trust, a lobby organisation, said that they believed that a Member of Parliament had a duty to provide or assure high standards of service to all citizens within the electorate as much as he or she did to Parliament as a democratic institution. They proposed an alternative regime until citizens were afforded the right to recall Members. This comprised a new parliamentary Code of Conduct for Members (with sanctions for breach) managed by an independent, citizen-led review panel and a citizen-focussed code or covenant directed at the constituency electorate and endorsed or signed by the Member.

53. A Chief Constable said that a primary function of a Member of Parliament was to advocate or represent the interests of all their constituents. He asked, without possible sanction under the Code, what redress a constituent would have. He said that at present there was no express requirement for a Member to be honest or to have regard to the impact an action may have on constituents. He said that a Member who had failed in his obligations to his constituents should be subject to disciplinary sanction in the House. In his view, the test should be positive and consider whether a Member’s actions were such that the reputation of the House was advanced.

### ***Discussion: application to constituency cases***

54. There is no statutory or formal job description for being a Member of Parliament. 650 Members are elected by their constituents, to serve them as the Member sees fit. Each Member represents, on average, around 90,000 constituents and has to decide for him- or herself how to balance the needs of those constituents alongside his or her other commitments, including duties in Parliament and the Member’s wider political role.

55. The “*special duty to their constituents*”, identified in paragraph 6 of the current Code, alongside a Member’s “*general duty to act in the interests of the nation as a whole*”, in my judgement properly captures the key responsibilities of the Member of Parliament echoed in paragraph 1 of the Code discussed above. It is, in my view, a proper aspiration to include in the Code, and not one that needs further definition or elaboration. It is for the Member to decide how best to meet that “*special duty*”. It is not for the House, let alone the Commissioner, to lay down how that obligation is to be met. Each constituency is different



in its character, history and expectations. The interests of different constituents may conflict. Time and resources are not unlimited. Each Member has to come to his or her own judgement on how best to serve his or her constituency and those who live in it. Within our democracy, political parties have a significant role in deciding on the party's candidate for the constituency, including whether the sitting Member should run again. But ultimately, it is for the electorate, and not the House, to decide on the promises and the performance of their various candidates, including any sitting Member.

56. It follows that I do not consider that the way the Member handles constituency business, or the representations made to them by a constituent or anybody else, should be adjudicable by the Commissioner and, through him, the House. The only circumstances where the House may wish to adjudicate on a Member's conduct in their constituency is the wholly exceptional case where there is clear evidence that the Member's conduct has been so serious and blatant as to cause significant damage to the reputation of the House. A Member's alleged failure to respond to a constituent or meet their wishes would fall far short of such a threshold.

### **Conclusion**

**57. I recommend that no addition is made to the Code to create general duties in respect of a Member to their constituents and that the current "special duty" to constituents should remain aspirational.**

### **Discussion: other public duties**

58. Paragraphs 4, 5 and 6 remind Members of the oath they take on election, their legal duties and their wider public duties. I consider that the second half of paragraph 5, which otherwise relates to legal duties, should be moved to form a new paragraph 7 since that requirement is a general not legal duty.

59. In its report on MPs' Expenses and Allowances, the Committee on Standards in Public Life set out a number of principles which should govern Members in their use of expenses.<sup>4</sup> The Independent Parliamentary Standards Authority, in its first consultation on Members' expenses, published in January 2010, made the following suggestion:

*"In order for the new expenses regime to operate effectively, we suggest that the House of Commons should incorporate into its Code of Conduct two principles from the CSPL report.<sup>5</sup> These are:*

- *Members of Parliament should always behave with probity and integrity when making claims on public resources. MPs should be held, and regard themselves, as personally responsible and accountable for expenses incurred, and claims made, and for adherence to these principles as well as to the rules.*

4 Twelfth Report of the Committee on Standards in Public Life, *MP's Expenses and Allowances*, Cm 7724, November 2009

5 These principles are set out in paragraph 3.3 of the Twelfth Report of the Committee on Standards in Public Life, *MP's Expenses and Allowances*, Cm 7724, November 2009

- *Members of Parliament should not exploit the system for personal financial advantage, nor to confer an undue advantage on a political organisation.*<sup>6</sup>

60. In my judgment, particularly following the expenses crisis, the Code should articulate clearly the aspirational principle that Members should always behave with probity and integrity, including in their use of public resources. This should not replace the specific rule relating to the use of expenses, allowances, facilities and services in Part V of the Code but should be complementary to it. This statement of principle is important to pave the way for that more detailed rule. I recommend, therefore, that the wording proposed by the Committee on Standards in Public Life should be divided between two parts of the Code. First, a commitment to probity and integrity, including in the use of public resources, should be incorporated into the aspirational section of the Code; second, a commitment to personal responsibility and accountability for not using expenses improperly should be reflected in the adjudication section of the Code. I discuss the drafting of this rule further at paragraphs 118 to 122 below.

## Conclusion

61. I propose that Part III should therefore read as follows:

### *III. Duties of Members*

*By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the house, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.*

*Members have a duty to uphold the law, including the general law against discrimination.*

*Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.*

*Members should act on all occasions in accordance with the public trust placed in them. They should always behave with probity and integrity, including in their use of public resources.*

62. I recommend that Part III of the Code is amended to incorporate a principle of probity and integrity, including in Members' use of public resources. I also recommend that the order of the paragraphs in Part III of the Code is amended to separate the legal and the general duties.

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<sup>6</sup> See paragraph 2.8 of *MPs' Expenses: A consultation from the Independent Parliamentary Standards Authority*, 7 January 2010: <http://www.ipsa-home.org.uk/docs/ipsa-consultation-mps-expenses.pdf>



## F. General Principles of Conduct

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### Background

63. The Code sets out the general principles of conduct which were established in the first report of the Committee on Standards in Public Life (the Nolan principles).<sup>7</sup> These principles have general and wider application for all public bodies. The Code provides that: “*These principles will be taken into consideration when any complaint is received of breaches of the provisions in other parts of the Code.*” They are not therefore subject to separate adjudication. In that sense, they are aspirational. Paragraph 7 of the Code is as follows:

*“7. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office.<sup>8</sup> These principles will be taken into consideration when any complaint is received of breaches of the provisions in other parts of the Code.”*

64. The present rule of conduct in paragraph 15 of the Code is as follows and is currently in the adjudicable part of the Code:

*“15. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.”*

65. **Question 8:** Should the general principles of conduct established by Lord Nolan continue to be included in the Code?

66. **Question 9:** Should there be any additions to the general principles and, if so, what?

67. **Question 10:** Should paragraph 15 of the Code be repositioned as a general principle?

68. **Question 11:** Should the general principles continue not by themselves to found a complaint against a Member?

69. **Responses to consultation:** The respondents strongly supported the continued inclusion in the Code of the general principles of conduct established by Lord Nolan.

70. The Committee on Standards in Public Life said that the Nolan principles may need elaborating in particular circumstances, but it would be wrong for the Code to depart from basic standards that were widely recognised and expected elsewhere in public life. The Parliamentary Labour Party said that the Nolan principles were strong and effective and did not need to be added to. The Northern Ireland Ombudsman and Interim Commissioner for Standards believed that the Nolan principles should remain as

7 First Report of the Committee on Standards in Public Life, Standards in Public Life, Cm 2850, May 1995

8 Cm 2850-I, p 14

“foundational” to the Code.

71. Some respondents felt that paragraph 15 should be repositioned as a general principle. The Northern Ireland Ombudsman and Interim Commissioner for Standards, who favoured this repositioning, believed it was very difficult to found a complaint solely on an alleged breach of principles. The Parliamentary Labour Party noted that, by repositioning paragraph 15 as a general principle, it would then become aspirational rather than adjudicable and a breach of that principle would not of itself be sufficient to found a complaint. In their view, as a rule of conduct, paragraph 15 was too difficult to adjudicate.

72. Both the Chair of Standards for England and the Parliamentary Labour Party said that the first part of paragraph 15 could be included in the general principles or even in the purpose of the Code. The Chair of Standards for England said that the second part of paragraph 15 could then remain in the rules part as this would reflect a provision of the local government Code which states: “*You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*” He also noted that the local government Code set out the Nolan principles and in addition included the following: personal judgment; respect for others; a duty to uphold the law; and stewardship.

73. Some respondents referred to the Northern Ireland Code which had added the following principles to the Nolan principles: equality; promoting good relations; respect; and good working relationships. The Northern Ireland Ombudsman and Interim Commissioner for Standards said that these additions represented the particular circumstances in which the Northern Ireland Assembly operated. He said they might also be appropriate to the House of Commons in acknowledgment of the diversity in various dimensions which now existed across the population of the United Kingdom. On the other hand, a Member said that these additional principles were due to the particular historical circumstances of Northern Ireland and should not be extended to the rest of the UK. The House of Lords Commissioner for Standards noted that in view of the unique office held by Members, there might be a case for highlighting the “*leadership*” principle.

74. The respondents, including the Parliamentary Labour Party agreed that the general Nolan principles should not by themselves found a complaint against a Member. The Chair of Standards for England said, while he fully advocated a Code which was flexible and not rules-driven, assessing complaints against the general principles themselves could be a subjective process. The Northern Ireland Ombudsman and Interim Commissioner for Standards agreed it was very difficult to found a complaint solely on an alleged breach of principles.

### **Discussion: Nolan Principles**

75. The general principles of conduct established by Lord Nolan are at the heart of standards throughout the public sector. Their strength is that they are a common set of principles for all public bodies. The House of Commons should act as a leader and therefore retain these, in their original form, as its general principles of conduct. In its other parts the Code already provides further duties and rules which are more focussed on

the unique role of Members. I see no compelling reason to make additions to these seven general principles and indeed to do so would risk undermining or diluting their wider importance. They should not by themselves found a complaint. I recommend minor amendments to the drafting of paragraph 7 to make clearer that the Nolan principles will be taken into account in the investigation and determination of allegations of breaches of the rules of conduct.

## Conclusion

76. This paragraph would, therefore, read as follows:

*In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office.<sup>9</sup> These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct in Part V of the Code.*

**77. I recommend that the general principles of conduct established by Lord Nolan should continue to be included in the Code, without any additions, and that the drafting of paragraph 7 be amended to make clearer that the Nolan principles will be taken into consideration in the investigation of allegations of breaches of the rules of conduct.**

## Discussion: paragraph 15 (integrity of Parliament)

78. Paragraph 15 is currently drafted in two parts. The first part requires Members at all times to “conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of Parliament”. That is a positive injunction. The second part requires that they should “never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.” That is a negative injunction.

79. I consider that it is impractical and arguably unreasonable for the positive injunction to be other than aspirational. It is already largely part of paragraph 5 of the Code, requiring Members to “act on all occasions in accordance with the public trust placed in them.” It would be difficult, and I consider unreasonable, to require a Member to explain how any and each action they have taken had the effect of “maintaining and strengthening the public’s trust and confidence in the integrity of Parliament”. I recommend, therefore, that the positive injunction in paragraph 15 of the Code be removed from that part.

80. But there have been occasions in the recent past where a Member’s conduct, while not breaching a more specific rule of the House, was nevertheless found clearly to have brought the House and its Members generally into disrepute. I consider that the House should continue to be able to come to a view on such potentially serious damage to the reputation of Parliament, on the basis of the Commissioner’s findings following a full inquiry.

Successive Commissioners have made clear that the threshold for such an inquiry is high. The conduct of a Member may be unwise and may indeed reflect badly on him or her, but that alone does not of itself damage the integrity and reputation of Parliament or of its Members generally. The rule in paragraph 15 should apply only to conduct which has those effects. For the House not to be able to decide on what action to take in such circumstances could cause further damage to the reputation and integrity of the House. I consider in paragraphs 129 to 133 below the drafting of paragraph 15.

### **Conclusion**

**81. I recommend that paragraph 15 should be repositioned, with the aspirational element being reflected in Part II Scope of the Code and the adjudicable element remaining in Part V Rules of Conduct.**

**82. I recommend that complaints should continue to be founded on an alleged breach of the specific rules of conduct, taking into account the general principles of conduct introduced by paragraph 7 which should not by themselves found a complaint.**

## G: Rules of Conduct

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### **Background**

83. Paragraph 8 provides:

*“8. Members are expected in particular to observe the following rules and associated Resolutions of the House.”*

### **Discussion**

84. This paragraph paves the way for the specific rules of conduct which follow. Those rules are set out in Parts V and VI in the Code. Together they form the adjudicable elements of the Code. Some of the rules are more specific than others. But each can form the grounds for a complaint against a Member. So too can the more detailed rules associated with some of these. These include those approved by the House in relation to Members’ use of facilities and services and the Guide to the Rules in relation to registration, declaration and lobbying. To give greater clarity to the distinction between the aspirational and adjudicable parts of the Code I recommend that all the rules are contained in a single part titled Rules of Conduct. Paragraph 16 should therefore be brought into Part V. To follow the order of the Guide to the Rules I recommend that paragraph 16 is placed after the current paragraph 11 (relating to bribery). I discuss amendments to the content of paragraph 16 at paragraphs 138 to 142 below. In the meantime, I recommend that paragraph 8 should remain to introduce this adjudicable part with a minor drafting amendment. This paragraph would, therefore, read as follows:

*Members are expected to observe the following rules and associated Resolutions of the House.*

### **Conclusion**

**85. I recommend that Part VI Registration and Declaration of Interests be subsumed into Part V Rules of Conduct, to form one part comprising the adjudicable rules. Paragraph 16 should therefore be moved to follow the current paragraph 11.**

## **Conflicts of Interest**

### **Background**

86. Paragraph 9 provides:

*“9. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.”*

87. **Question 12:** should paragraph 9 remain as drafted and remain subject to adjudication?

88. **Responses to consultation:** The respondents were supportive of paragraph 9 remaining both as drafted and subject to adjudication. The Chair of Standards for England said that the notion of working in the public interest and not putting private interests first was a cornerstone of a democratically accountable government. The Northern Ireland Ombudsman and Interim Commissioner for Standards said resolution of a conflict of interest was fundamental to the Code. He believed that the current wording was adequate for the purpose and that adjudication by the House was appropriate.

### **Discussion**

89. This paragraph is a founding provision of the Code. It goes to the heart of what is expected of Members of Parliament. It is necessary to ensure that any conflicts of interest are dealt with in line with the duties and general principles earlier in the Code. While to do so may require difficult judgments to be made, it must in my judgment remain adjudicable so that any conduct which allegedly breaches this rule can be investigated, and so that the House can impose a sanction, if necessary, where there has been a breach of this rule. I recommend therefore that it remains unchanged.

### **Conclusion**

90. **I recommend that paragraph 9 remains in the Code, as drafted and subject to adjudication.**

## **Financial Rules**

### **Background**

91. Paragraph 10 provides:

*“10. No Member shall act as a paid advocate in any proceeding of the House.”*<sup>10</sup>

92. Paragraph 11 deals with bribery as follows:

*“11. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.”*<sup>11</sup>

<sup>10</sup> Resolution of 6 November 1995

<sup>11</sup> Resolutions of 2 May 1695, 22 June 1858, and 15 July 1947 as amended on 6 November 1995 and 14 May 2002

93. Paragraph 12 provides:

*“12. In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.”*

94. **Questions 13 and 14:** should paragraphs 10 and 11 remain as drafted?

95. **Question 15:** should paragraph 12 remain in the Code. If so should it be aspirational or adjudicable? Does it require amendment?

96. **Responses to consultation:** The respondents were in agreement that paragraphs 10 and 11 should remain as drafted in the Code. The Leader of the House described these as fundamental to the Code and said they should remain as drafted, with the existing proper safeguards to ensure that investigations by the Commissioner did not interfere with criminal investigations by the police. The Northern Ireland Ombudsman and Interim Commissioner for Standards saw no persuasive argument to amend these requirements, which were set out in unambiguous terms and remained valid.

97. Most respondents supported the continued inclusion of paragraph 12 in the Code and that it should remain adjudicable. The Chair of Standards for England said that the reference to *“informal meetings and functions”* was important as his experience suggested that it was sometimes in such informal situations, but whilst still conducting the business of the authority, that breaches of their code could potentially occur.

98. The Parliamentary Labour Party commented that a careful definition of ‘officials’ was needed so it was clear to Members which individuals fell under that category. They also said that it should be made clear how declarations should be made in the case of officials. The Leader of the House believed that paragraph 12 should remain as an adjudicable part of the Code, and agreed that there would be merit in harmonising the various references to *“officials”* to make it clear that a broad intention was intended. On the other hand, the Northern Ireland Ombudsman and Interim Commissioner for Standards said that it appeared to him that the principle (of paragraph 12) was covered adequately in the Guide to the Rules. That being so, paragraph 12 could be omitted. He concurred that ‘official’ should have a wide application and the opportunity should be taken to harmonise the various references.

99. The House of Lords Commissioner for Standards suggested that the requirement *“to be open and frank”* could be strengthened by a requirement to disclose a relevant financial relationship. He felt this would be consistent with the requirements of paragraph 16 of the Code (relating to registration of interests).

## Discussion

100. I agree that the provisions on advocacy and bribery (paragraphs 10 and 11) are relevant, longstanding and fundamental provisions. I consider, therefore, that they should



remain in this adjudicable part of the Code. Further guidance on the operation of these important rules is set out in the Guide to the Rules. I intend to begin my review of the Guide later in 2011.

101. I recognise the argument that Members need to be alert to the importance of identifying openly and frankly any financial interests in the contacts they have with Ministers, Members and officials, including informal contacts. But I am doubtful that this should found a rule separate from the rule on registration and declaration which is discussed at paragraphs 138 to 142 below. It seems to me difficult and unnecessary to adjudicate on whether a Member has met the requirement to “*bear in mind the need to be open and frank with Ministers*” and others in dealings in which they have financial interests. This is principally a provision about declaration. It is not, in my judgement, a separate rule. If there needs to be guidance on the importance of declaring relevant financial interests in informal as well as formal meetings, I suggest that that would be a matter for including in the Guide to the Rules, which I propose to consider later this year. In paragraph 138 below I recommend including the requirement, which is currently part of paragraph 12 to be open and frank, in paragraph 16 of the Code.

### Conclusion

**102. I recommend that paragraphs 10 and 11 remain as drafted, and that paragraph 12 is deleted, relying instead on the registration and declaration requirements in paragraph 16 of the current Code.**

### Information Received in Confidence

#### Background

103. Paragraph 13 provides as follows:

*“13. Members must bear in mind that information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain.”*

104. **Question 16:** should paragraph 13 remain as drafted?

105. **Question 17:** should paragraph 13 be extended to prevent Members from disclosing confidential information which they receive; and, if so, should there be a public interest test for any such disclosure?

106. **Responses to consultation:** The respondents did not support the extension to paragraph 13 suggested by question 17. The Leader of the House, the Parliamentary Labour Party, two Members and a former Member were of the view that paragraph 13 should remain as it was. The Leader of the House said that paragraph 13 should be retained as an absolute prohibition on the use of confidential information for private financial gain. He said that there were circumstances in which it would be right for a Member to disclose confidential information in the course of his or her parliamentary duties. He considered it



should be for the individual Member to make that judgment, possibly after taking advice from the Speaker. A Member said that it should be the judgment of the electorate that determines whether a Member had acted prudently or imprudently in the way he or she had handled information.

107. The Northern Ireland Ombudsman and Interim Commissioner for Standards felt that, if there were to be a prohibition on the disclosure of confidential information, a Member should have the right to invoke the public interest to disclose information.

108. The Chair of Standards for England said that it might be worth considering broadening the scope of this provision to show that a Member should only use confidential information for purposes other than parliamentary duties when the Member was certain that it was in the public interest or where another condition applied, such as having the consent of an authorised person.

### **Discussion**

109. The original purpose of this paragraph was to prevent Members benefiting themselves financially from information received in confidence in the course of their duties: a form of “insider dealing”. I consider that this paragraph achieves an important aim and should therefore be retained.

110. I have considered also whether Members should be constrained under the rules from disclosing confidential information which they receive, with or without a public interest test. I recognise that other jurisdictions, and local authority codes, have such a rule. But I am persuaded, including by the evidence from respondents, that Members of Parliament should not be constrained from exercising their own judgement in deciding whether to disclose any confidential information which they receive. I consider this should apply whether or not it is received from the originator of that information and whether or not the source is authorised to disclose such information to the Member. Within the normal laws of the land, Members should be able to exercise their own judgement without fear or the potential constraint of such a rule in the Code of Conduct. The disclosure of such information, while it can be uncomfortable and very difficult for the originators, can serve a very important public purpose in drawing to attention matters which others might wish not to have disclosed. The Code of Conduct should not, in my judgement, be drawn up in such a way as to have a chilling effect on Members disclosing such information when and if they judge it right to do so.

### **Conclusion**

111. I therefore recommend that paragraph 13 should be retained and should not be extended to restrict Members from disclosing confidential information which they receive. But I consider that the drafting of this paragraph should be amended so as to improve its clarity as follows:

*Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. Such information must never be used for the purpose of financial gain.*

112. I recommend that paragraph 13 should be retained with amended drafting but it should not be extended to prevent Members from disclosing confidential information where they judge it necessary.

## Expenses, Allowances, Facilities and Services

### Background

113. Paragraph 14 provides:

*“14. Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.”*

114. I refer in paragraph 59 to two principles proposed by the Committee on Standards in Public Life in relation to Members’ expenses, which the Independent Parliamentary Standards Authority proposed should be included in the Code. I suggest in paragraph 60 that part of these principles should be in the aspirational part of the Code. I consider here including the other part in the adjudicable section. The two principles were:

- *“Members of Parliament should always behave with probity and integrity when making claims on public resources. MPs should be held, and regard themselves, as personally responsible and accountable for expenses incurred, and claims made, and for adherence to these principles as well as to the rules.*
- *Members of Parliament should not exploit the system for personal financial advantage, nor to confer an undue advantage on a political organisation.”<sup>12</sup>*

115. **Question 18:** should paragraph 14, relating to Members’ expenses, allowances, facilities, and services be recast on the lines of the principles identified by the Committee on Standards in Public Life?

116. **Responses to consultation:** There was support from the respondents for the Code continuing to include a reference to Members’ expenses.

117. The Leader of the House supported the wording proposed by the Committee on Standards in Public Life. The Northern Ireland Ombudsman and Interim Commissioner for Standards believed it was important that the Code kept pace with other developments, including legislation. He too therefore favoured recasting paragraph 14 along the lines of the principles identified by the Committee on Standards in Public Life. The Parliamentary Labour Party suggested alternative wording similar to the current rules but including a reference to IPSA.

<sup>12</sup> These principles are set out in paragraph 3.3 of the Twelfth Report of the Committee on Standards in Public Life, *MPs’ Expenses and Allowances*, Cm 7724, November 2009

## Discussion

118. Paragraph 14 sets the principal rule for Members' use of public funds. Following the expenses scandal, this aspect of House standards carries particular significance. This is an opportunity for the House to reflect in the Code its firm commitment to probity in the use of publicly funded facilities and resources. I agree with the respondents that the Code must, therefore, continue to include an adjudicable rule in respect of the propriety of Members' use of expenses, allowances, facilities and services. Without that, while the Independent Parliamentary Standards Authority could take action in respect of a Member's expenses claims in accordance with the statute, there would be no opportunity for the House to consider any parliamentary sanction.

119. I consider that the principles proposed by the Committee on Standards in Public Life helpfully reflect the sort of conduct in relation to expenses and facilities which should engage the Code of Conduct for Members of Parliament. I have discussed at paragraphs 59 to 62 above, my recommendation that the aspiration that Members of Parliament should always behave with probity and integrity should be incorporated as a duty under Part III of the Code. But I consider it is right that while IPSA and the Compliance Officer deal with any alleged breach of their expenses rules, the Code of Conduct should still enable the House to decide on a parliamentary sanction where the Member's conduct, in relation to their use of public resources, justifies it.

120. In terms of the drafting of the rule, I consider that the reference proposed by the Committee on Standards in Public Life needs to be extended from expenses (which it was considering) to include also Members' use of House facilities and services and any allowances which might be available to them. The rule should also require Members to ensure that their use of public resources is always in support of their parliamentary duties.

## Conclusion

121. I recommend, therefore, that this paragraph is amended to read as follows:

*Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties and never otherwise confers any benefit—whether personal, financial or political—on themselves or on anyone else.*

**122. I recommend that paragraph 14 is amended to form the principal rule for Members' use of public resources. This should make clear that Members are personally responsible and accountable for ensuring that their claims are in accordance with the rules and are always used in support of their parliamentary duties.**

## Bringing the House into disrepute

### Background

123. Paragraph 15 provides:

*“15. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public’s trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.”*

124. **Question 19:** should there continue to be a distinction between Members’ behaviour which reflects adversely on themselves, and behaviour which reflects on all Members and the institution of the House? Should only the latter be subject to the Code and, if so, should the reference be aspirational or adjudicable?

125. **Question 20:** if this provision is to extend to aspects of a Member’s private life (see paragraphs 27 to 38 above), should it be aspirational or adjudicable (in other words, should it be possible to complain to the Commissioner about a Member’s conduct of their private life)?

126. **Responses to consultation:** As set out in paragraphs 71 and 72 above, some respondents considered that paragraph 15 should be repositioned as a general principle. The Parliamentary Labour Party said that, in their view, as a rule of conduct, paragraph 15 was too difficult to adjudicate. The Parliamentary Labour Party also commented that they felt that the distinction referred to in Question 19 continued to be an important one.

127. The Northern Ireland Ombudsman and Interim Commissioner for Standards said that he believed there were limits as to how far the Code should extend into the wider public life of a Member. He said the key test was whether the Member’s actions brought the whole institution into disrepute, which he said was a high standard and it should remain high. The Chair of Standards for England said that their experience had been that it was useful to include within the Code provisions that would capture behaviour such as intimidation, bullying and the use of offensive language.

128. As set out at paragraphs 28 to 31 above, respondents were opposed to an extension of the Code into a Member’s private life.

### **Discussion**

129. I have discussed this rule at paragraphs 78 to 81 above and have recommended that it should be repositioned, with the aspirational element being reflected in Part II: Scope of the Code and the adjudicable element remaining in Part V: Rules of Conduct. I have also recommended at paragraphs 32 to 38 an extension of the scope to ensure that the Code applies to a Member’s conduct in all aspects of his or her parliamentary life, and otherwise only to any other conduct which is so serious that it significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.

130. By amending the scope of the Code in this way, Members’ conduct which met this high threshold could be adjudicable under paragraph 15 of the Code.

131. I consider that the House should expect its Members to make a commitment not to damage the reputation and integrity of the House. There have been occasions in the recent past when a Member has breached the reputational rule set out in paragraph 15 (but not

any other rules in the Code) and the House has decided, following an inquiry by the Commissioner, to take appropriate action. I consider that the House should continue to have that opportunity by retaining the general provision set out in paragraph 15 of the current rules. But, as currently drafted, I have some sympathy with the view of the Parliamentary Labour Party that it is difficult to interpret the terms used, and, therefore, judge whether a Member is or is not acting within that rule. There will always be an element of judgement which the Member, the Commissioner and the House will have to exercise, but, while I suggest some clarification (and shortening) of the drafting, I do not believe that it should normally be problematic for a Member to decide whether the conduct is likely to cause significant damage to the reputation and integrity of the House. I consider it is right that the rule should continue to be set at the level where the Member's conduct reaches the high threshold of affecting the reputation and integrity of the House as a whole or of its Members generally. It is not, in my judgement, for the House to adjudicate on lesser misconduct, however ill-advised it may be or however it may reflect on the individual Member. That, in my view, is not a matter for the House and the Commissioner, but for the electorate.

### **Conclusion**

132. I recommend, therefore, that paragraph 15 be retained in its purpose and be amended in its content to read as follows:

*Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.*

**133. I recommend that paragraph 15 should be retained with amended drafting but continue to prohibit conduct which would impact on the House of Commons as a whole or of its Members generally.**

## H. Registration and Declaration of Interests

### Background

134. Part VI introduces into the Code the obligation on Members to register and declare their interests. The single paragraph provides as follows:

**“VI. Registration and Declaration of Interests**

*16. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members’ Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.”<sup>13</sup>*

135. **Question 21:** should the requirement to declare an interest in paragraph 16 be extended to public officials (as provided in paragraph 12 and the Guide to the Rules)?

136. **Responses to consultation:** There was some support and some opposition to this proposal from the respondents. The Public Standards Commissioner for Scotland did not see the case for extending the provisions on the declaration of interests to other public officials. A Member also felt that no extension was needed and questioned whether there was an identified problem here. On the other hand, the Northern Ireland Ombudsman and Interim Commissioner for Standards felt an extension should be made in the interests of full transparency. The Parliamentary Labour Party said, given that the Commissioner had already interpreted this rule to mean that it covered public officials other than civil servants, this rule should be amended to reflect this. They said that the definition of a “*public official*” in this context needed to be made clear so that Members could avoid accidental breaches of the Code. The Leader of the House agreed that there would be merit in harmonising the various references to ‘officials’ to make clear that a broad interpretation was intended.

137. The Chair of Standards for England said that if “*communications*” were to continue to be a part of paragraph 16, then the Code should be extended to public officials or to include a requirement not to seek improperly to influence decisions in which the Member had a substantial interest.

### Discussion

138. Paragraph 16 sets the overarching rule on registration and the declaration of interests. It is supported by detail in the Guide to the Rules which establishes more precisely the requirements on Members. This is a core rule of the Code and I consider that it must continue to be included. I have explained at paragraph 101 above why I do not consider it

<sup>13</sup> Resolutions of the House of 22 May 1974, 12 June 1975 as amended on 19 July 1995, 12 June 1975, 17 December 1985, 6 November 1995 as amended on 14 May 2002, and 13 July 1992



necessary for the Code to include in addition, as a separate rule, the statement in paragraph 12 emphasising the principle on declaration. I have considered whether there are any aspects of paragraph 12 which need to be reflected in paragraph 16. I have concluded that the only such addition required is to introduce the principle of being open and frank into paragraph 16. I have discussed at paragraphs 84 and 85 above my recommendation that this single paragraph in Part VI of the Code should be subsumed into Part V: Rules of Conduct, to follow the current paragraph 11, thus keeping in one part all the rules of conduct which are subject to adjudication.

139. The current Code and Guide to the Rules make a number of different references to the subject of a Member's declaration. In 2010 the Committee noted that it would be helpful if the references to "*public officials*" in respect of the advocacy rule and associated guidance were clarified and, in due course, amended.<sup>14</sup> The precise terms of an amendment to the rule would require careful consideration. The current Code refers to "*Ministers, Members and officials*" in paragraph 12 and to "*Ministers, Government Departments or Executive Agencies*" in paragraph 16. Paragraph 72 of the Guide to the Rules requires a declaration to be made to "*Ministers or servants of the Crown*" and states "*that the term 'servants of the Crown' should be interpreted as applying to the staff of executive agencies as well as to all staff employed in government departments.*" Paragraph 86 of the Guide refers to Members dealing with "*Ministers of the Crown and civil servants*". I agree with those respondents who say that the Code and the Guide to the Rules should harmonise these references to avoid any misunderstanding or risk of misinterpretation.

140. It is a matter of good practice that everyone should be open and frank in their public lives and should expect and be expected to declare any relevant financial interest in their communications. Members of Parliament will, of course, share that aspiration with other citizens. But I consider that Members should be under a more specific obligation. In my judgement, they should have a duty to declare any relevant financial interest in all their communications with those who are responsible for matters of public policy, public expenditure or the delivery of public services. Such people are no longer largely confined to central government departments. Nor will they necessarily be members of an executive agency. As decisions on policy, operations and expenditure are now devolved far more widely, they are now the responsibility of a range of public bodies and organisations, including at local levels. In my judgement, any rule of conduct requiring a declaration of relevant financial interests should not be narrowly constrained, but should include all such public officials or office holders. I recommend, therefore, that paragraph 16 is drafted in a way which makes it clear that Members are required to make any relevant declarations of their financial interests, direct or indirect, with all such officials or office holders.

## Conclusion

141. I recommend that paragraph 16 is amended to read as follows:

*Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Financial Interests. They shall always be open and frank in drawing attention to any relevant interest in any*

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14 Committee on Standards and Privileges, Ninth Report of Session 2010–11, HC 654, Volume 1, paragraphs 74 and 75

*proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.*

**142. I recommend that paragraph 16 is amended to make clear that declaration applies in any communications with Ministers, Members, public officials or public office holders.**



# I. Duties in respect of the Parliamentary Commissioner and the Committee on Standards and Privileges

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## Background

143. Paragraphs 17 to 19 in Part VII provide as follows:

***“VII: Duties in respect of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges***

*17. The application of this Code shall be a matter for the House of Commons, and for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.*

*18. Members shall co-operate, at all stages, with any investigation into their conduct by or under the authority of the House.*

*19. No Member shall lobby a member of the Committee on Standards and Privileges in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code.”*

144. **Question 22:** should part VII be revised to become a section on enforcement? If so, what provisions should it include?

145. **Responses to consultation:** The Parliamentary Labour Party and a Member did not support the proposal that Part VII should become a part on enforcement. The Parliamentary Labour Party said that it was sufficient for the Code to set out that complaints could be made about breaches of the rules of conduct. It could then be left to the Guide to the Rules to provide further guidance and clarification.

## Discussion

146. I recognise the wish to avoid any implied reflection on Members by the renaming of Part VII as an “*enforcement*” section. I consider, however, that it is reasonable that there continues to be a part in the Code setting out how those subject to it can be made amenable to its terms. Given the sovereign nature of Parliament, under this Code Members are ultimately accountable for their conduct to the House, via the Commissioner and the Committee on Standards and Privileges, and this should be clear from this final part. This is particularly important because, as discussed at paragraphs 18 to 20 above, a key purpose of the Code is to ensure public confidence that the House will uphold the rules of conduct set out in the Code. I consider, however, that the title of this part of the Code and the details it gives of the process to uphold these standards could be clearer and more relevant. In particular, I recommend that the part be titled: “*Upholding the Code*”, which is a shorter and more accurate description of its content. I also recommend that the paragraphs in this

part be extended to provide, at a high level, an outline of the process for resolving any alleged breach of the rules of conduct which form part of the Code.

## **Conclusion**

147. This final part, which would now become Part VI, would therefore read as follows:

### ***VI. Upholding the Code***

*The application of this Code shall be a matter for the House of Commons, and particularly for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.*

*The Commissioner may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code. Members shall cooperate, at all stages, with any such investigation by or under the authority of the House. No Member shall lobby a member of the Committee in a manner calculated or intended to influence their consideration of an alleged breach of this Code.*

*The Committee will consider any report from the Commissioner to it and report its conclusions and recommendations to the House. The House may impose a sanction on the Member where it considers it necessary.*

**148. I recommend that the final section be titled “Upholding the Code” and that it be amended to provide a high-level outline of the process for resolving any alleged breach of the rules of conduct.**

## J. Other

149. **Question 23:** should all Members be asked to sign their commitment to the Code when they first take their seats in each Parliament?

150. **Responses to consultation:** Most of the respondents supported the notion that a Member should make a positive commitment towards the Code. An Emeritus Professor and a Senior Lecturer in Politics recommended that, to underline the significance of the Code, after each election Members should be required to sign a commitment to the Code and rules and a declaration that they have read them. But a number of respondents raised some practical questions about its implementation. One Member asked whether there would be some form of sanction if Members did not sign, and if so who would impose it and in what way. The Leader of the House said that it would be important to ensure that the application of the Code to Members who chose not to take their seat would not thereby be undermined or made uncertain.

### Discussion

151. I consider there are some benefits to Members signing their commitment to the Code, such as helping to ensure greater public confidence. But I also recognise the practical difficulties raised by the respondents, as well as the problem of establishing a suitable sanction in the event that a Member failed to comply, whether deliberately or unintentionally. As I said in paragraph 43, the Code should and does apply to all Members equally. This remains true even in respect of Members who decide not to take their seats in the House. Taking into account both the administrative complexities of ensuring that all new Members had signed their commitment to the Code, and the importance of avoiding any implication—no matter how false—that a Member who does not sign the Code would not therefore be subject to it, I do not recommend introducing a requirement that Members must sign the Code. The Code is short and I propose to continue to write personally to each newly elected Member to send them a copy of the Code and to emphasise the importance the House attaches to it.

### Conclusion

152. **I recommend that no requirement be introduced for Members to sign their commitment to the Code when they first take their seats in Parliament, but that each new Member continues to be sent a copy of the Code as part of their induction.**

153. **Question 24:** should there be any further additions to the Code and if so, what should they be and should they be aspirational or adjudicable?

154. **Question 25:** are there any parts of the Code which should be removed and, if so, why?

**155. Responses to consultation:** suggested additions to the Code by respondents are discussed below. The respondents did not suggest any further parts of the Code for removal.

**156. Issue:** whether the Code of Conduct should be extended to require Members who are former Ministers to follow the advice provided by the Advisory Committee on Business Appointments.

157. The requirement on former Ministers to seek advice from the Independent Advisory Committee on Business Appointments and to abide by such advice is set out in the Ministerial Code (paragraph 7.25). At present, the Ministerial Code, and consideration of any breach of that Code, is separate from, but complementary to, the Code of Conduct for Members (under paragraph 3). The Committee on Standards in Public Life reiterated to me their recommendation that this should change.

158. In its response to the consultation, the Committee on Standards in Public Life said that in its report on MPs' Expenses and Allowances it had recommended that the Code of Conduct for Members of Parliament should be revised to allow complaints to be made against a Member who is a former Minister and who takes on outside employment but does not follow advice provided by the Advisory Committee on Business Appointments (ACOBA).<sup>15</sup> The Committee said that the public had a right to expect that former Ministers would abide by the business appointment rules, as required by the Ministerial Code and that it was a weakness in the current system that serving Members who did not follow the advice of ACOBA were not subject to any formal compliance procedure.

159. Following this response I wrote to Rt Hon Lord Lang of Monkton, Chairman of ACOBA and Sir Gus O'Donnell, Secretary of the Cabinet, for their advice on this recommendation. In my letters I set out the following extract from a report by the Committee on Standards and Privileges of 24 November 2009 which considered this recommendation:

*“This proposal would extend the Code into an area of conduct which is not directly related to an ex-Minister’s status as an MP. We would have preferred to see this matter dealt with by legislation. However, on the assumption that the House will amend the Code as recommended by the CSPL, the Commissioner and the Committee will of course operate the new provision.”*<sup>16</sup>

160. In response to my letter, the Chairman of ACOBA said that the Committee considered this to be a matter for others to decide but, while it did not have a strong view on the issue, it would broadly welcome the proposal. He said that the current Committee had not been made aware of any instances where former Ministers had failed to consult

15 Committee on Standards in Public Life, Twelfth Report, *MP's expenses and allowances—Supporting Parliament, safeguarding the taxpayer*, Cm 7724

16 Committee on Standards and Privileges, Second Report of Session 2009–10, HC 67, paragraph 16

ACOBA or to comply with its advice. He said that the Committee had considered whether the House of Lords should introduce a similar recommendation into its Code of Conduct, as many former Ministers were members of that House.

161. The Secretary of the Cabinet said that he had given careful consideration to the proposal, but that as these were rules relating specifically to former Ministers (who may or may not be sitting Members of Parliament at the time any allegations are made), he did not think it would be appropriate to include this within the Commissioner's remit. To do so would, he believed, lead to a blurring of the lines of accountability and responsibility between Parliament and the Executive. It was for the Executive, rather than Parliament to rule on Ministerial conduct in the context of the Ministerial Code. That Code was very clear that former Ministers must abide by ACOBA's advice. He said that ACOBA's advice to former Ministers was confidential until the appointment was publicly announced or taken up. At that point ACOBA made public its advice. ACOBA would also say publicly, if asked, whether or not its advice had been sought about an appointment. The Secretary of the Cabinet said that he believed that this degree of transparency provided an effective safeguard should former Ministers fail to consult ACOBA or comply with its advice.

### *Discussion*

162. I have considered this proposal in the light of the comments from the then Committee on Standards and Privileges, the Chairman of ACOBA and the Secretary of the Cabinet. The Code as currently drafted recognises that there are separate but complementary obligations which apply to Members falling within the scope of the Ministerial Code. As the Secretary of the Cabinet makes clear, the requirement for former Ministers to seek ACOBA's advice is part of the Ministerial Code. It does not at present form part of the House of Commons Code.

163. I recognise the judgment of the Committee on Standards in Public Life that, in its view, there should be some means of enforcing the decisions of ACOBA in respect of the employment of former Ministers. I recognise, too, the view of the Secretary of the Cabinet that, in effect, public exposure is a sufficient sanction. I have taken no view myself on the effectiveness of any sanctions under the Ministerial Code. I have considered solely whether an enforcement regime should be introduced through amendments to the House of Commons Code. Having taken account of the responses I have received from the Committee, the Chairman of ACOBA and the Secretary of the Cabinet, and the report from the Committee on Standards and Privileges my advice to the current Committee is that the Code should not specifically be extended in this way.

164. I consider it important that the Code should apply equally to all Members. There should not be different requirements depending on the current or former status of the Member. I am concerned too that the House, and the Commissioner as the servant of the House, should not cross the line from adjudicating on parliamentary matters to adjudicating on decisions of the Executive and those appointed by the Executive to make those decisions. It would be unreasonable, and unfair on the Member complained of, to restrict the discretion of the House, and of the Commissioner, from commenting on the reasonableness of ACOBA's decisions and the executive framework within which it

operates. But that is not, in my view, an appropriate role for the Commissioner. It risks drawing the disciplinary sanctions of the House into matters affecting the responsibilities of the Executive, which I believe it is very important to avoid. Finally, I note that any such provision would apply only to former Ministers who were sitting Members of the House of Commons and, even if the House of Lords were to change the Code for their Members who were former Ministers, there would still be a group of former Ministers who were Members of neither House. It would not of itself, therefore, provide a full resolution of any problems, either in principle or in practice, in relation to sanctions for non-compliance with ACOBA's decisions. If there is such a problem, I consider that it should be a matter to be addressed by the Executive and not partially handed over to the House.

### Conclusion

**165. I recommend that the Code is not revised to allow complaints to be made against a Member who is a former Minister and is alleged not to have followed advice provided by the Advisory Committee on Business Appointments. That should remain a matter for the Executive to consider.**

166. **Issue:** whether the Code of Conduct should be extended to cover the behaviour of Members in their dealings with House staff.

167. In their response to the consultation, the House of Commons Trade Union Side said that they believed the Code was currently insufficiently precise to cover the standard of behaviour of Members of Parliament in their dealings with House staff. They said that an extension to the Code to provide greater precision would be welcomed.

168. The Trade Union Side suggested that the behaviour of MPs was a cause for concern among staff. They believed that the best means of investigating and sanctioning Members of Parliament in serious cases of personal or physical abuse was the body set up by the House precisely to deal with actions by MPs that, according to the Code: "*would bring the House of Commons, or its Members generally, into disrepute.*"

169. Following this submission I wrote to the Director-General of Human Resources and Change seeking his comments on the submission from the Trade Union Side. In his response he said that the Management Board shared the concern that allegations of bullying and harassment of House staff should be dealt with appropriately. He said that the Board had been working with the House of Commons Commission, the political parties and the trade unions to seek a way forward. He said that with the full endorsement of the Commission a new policy (the "*Respect Policy*") had been introduced in June 2011 to resolve any complaints in relation to allegations of harassment or bullying by Members of Parliament against House of Commons staff. It provided a procedure for considering and resolving such allegations, involving, if necessary, the Whip for the party to which the Member belonged as well as Mr Speaker and the House of Commons Commission, with the ultimate possibility that a report would be made to the House. He said that the Board understood the Trade Union side's concerns, but believed that the new policy sought to address them in an appropriate way, and should be given time to bed in.



## Discussion

170. I welcome the introduction of the new “Respect” policy to resolve any allegations of harassment or bullying by Members of Parliament against House of Commons staff. I consider that it is right that such a procedure should be introduced as part of good personnel policy for the House in respect of its staff. In my view, the investigation and resolution of allegations of harassment or bullying in these circumstances is properly managed under that procedure. It should not be transferred to the Commissioner.

171. As a matter of principle, I do not believe that the Code of Conduct should set different requirements or expectations on Members of Parliament in respect of the way they treat others according to the status or employment of that person. Members are already required under paragraph 5 of the Code to uphold the law. Within that, I have already set out my view that Members should be expected to make their own judgments on the way in which they treat constituents and others.<sup>17</sup> The Commissioner should not, through the complaints process, substitute his judgment for theirs, save in exceptional circumstances. Those circumstances are where the Member’s conduct can be shown to be so egregious and so blatant that it causes significant damage to the reputation and integrity of the House of Commons as a whole or of its Members generally. In such circumstances, that should, in my judgment, be able to be found to be an adjudicable breach of the Code and therefore enable the House to take any necessary action to help to repair such damage. That could apply to a Member’s continuing and substantial bullying and harassment against staff of the House, as it could apply to their own staff, to employees in other organisations, including local authorities, and indeed to their constituents.

## Conclusion

**172. I recommend that the Code does not include a separate provision in relation to Members’ conduct in respect of the staff of the House of Commons where a new policy for resolving such matters has recently been introduced.**

**173. Issue:** whether the Code should include a definition of “*serious wrongdoing*” to support a provision for the recall of a Member.

174. The Leader of the House noted that the proposed legislation to introduce a power of recall would provide that a finding of serious wrongdoing by a Member would allow voters to force a by-election if a petition for this purpose was signed by 10% of his or her constituents. He said that the definition of “*serious wrongdoing*” was likely to include certain breaches of the Code of Conduct. He suggested that, after the legislation had been passed, there might then be a case for providing some guidance in the Code itself about the type of breach which might be regarded as falling at the more serious end of the spectrum.

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<sup>17</sup> See paragraphs 54 to 57 above

### ***Discussion***

175. As the Leader of the House recognised, it is too soon to introduce any such provision in the Code, since Parliament has yet to consider the relevant legislation. I would not expect, however, that it would be necessary or desirable to seek to define “*serious wrongdoing*” in the Code itself, since so much would depend on the circumstances of each case.



## Conclusion

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176. While I consider that the Code of Conduct generally remains relevant and apposite in the current Parliament, I have proposed some refinements and amendments in this memorandum to clarify its purpose and effect. I have also made recommendations which I consider are necessary to ensure the Code is applicable against today's standards and expectations and which help to increase public confidence in the House and its Members.

177. I have considered whether the Code is likely to have a differential impact on Members. I have considered in particular whether it is likely to have a differential impact on certain groups, those with different circumstances, including age, disability, ethnicity, gender, religion and sexual orientation. I do not consider the substance of the Code to have such an impact, although those with greater outside financial interests are likely to be more greatly affected by some of its provisions. While the Code is produced as a written document, the House should have available alternative formats to assist anyone who requests one.

178. I have considered also the resource implications of the changes to the Code which I have recommended. In some places I have suggested a narrowing of the Code, including removing any application to activities not related to a Member's parliamentary duties. In others I have suggested an extension of the Code to bring within its ambit conduct which causes significant damage to the reputation and integrity of the House as a whole or of its Members generally. This could lead to some increase in inquiries, but, given the high threshold recommended, any increase should be within the normal variation in the Commissioner's inquiry caseload over the course of each Parliament. The House has already provided the Commissioner with flexibility in his resources to reflect changes in his workload and I do not envisage any marked changes within that provision as a result of the changes I have recommended to the Code. I also recognise the resource implications for the House in considering an updated Code, and for its Members in familiarising themselves with it. To support Members I will write to each of them outlining any changes to an updated Code and will offer briefing sessions to Members.

179. I invite the Committee to consider the outcome of my review of the Code of Conduct and the terms of a revised Code set out in Appendix 2 of this memorandum.

## Annex 1: List of Recommendations

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**Recommendation 1:** I recommend that the Code continues to establish broad high-level principles in relation to the main areas of a Member’s conduct, and provides a high-level statement of the specific rules to which Members will be held to account, leaving the detail to be set out separately as required.

**Recommendation 2:** I recommend that Part I of the Code be amended to reflect more clearly and directly its intentions to: establish the standards and principles of conduct, set the rules and ensure public confidence.

**Recommendation 3:** I recommend that the scope of the Code be amended to reflect that it does not seek to regulate Members’ conduct in their purely private and personal lives, or their wider public lives unless that conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.

**Recommendation 4:** I recommend that no change is made to paragraph 3 of the Code which rightly places matters relating to other procedural rules of the House and, where relevant, the Ministerial Code, outside the scope of this Code.

**Recommendation 5:** I recommend that no addition is made to the Code to create general duties in respect of a Member to their constituents and that the current “*special duty*” to constituents should remain aspirational.

**Recommendation 6:** I recommend that Part III of the Code is amended to incorporate a principle of probity and integrity in Members’ use of public resources. I also recommend that the order of the paragraphs in Part III of the Code is amended to separate the legal and the general duties.

**Recommendation 7:** I recommend that the general principles of conduct established by Lord Nolan should continue to be included in the Code, without any additions, and that the drafting of paragraph 7 be amended to make clearer that the Nolan principles will be taken into consideration in the investigation of allegations of breaches of the rules of conduct.

**Recommendation 8:** I recommend that paragraph 15 should be repositioned, with the aspirational element being reflected in Part II Scope of the Code and the adjudicable element remaining in Part V Rules of Conduct.

**Recommendation 9:** I recommend that complaints should continue to be founded on an alleged breach of the specific rules of conduct, taking into account the general principles of conduct introduced by paragraph 7 which should not by themselves found a complaint.

**Recommendation 10:** I recommend that Part VI Registration and Declaration of Interests be subsumed into Part V Rules of Conduct, to form one part comprising the adjudicable rules. Paragraph 16 should therefore be moved to follow the current paragraph 11.

**Recommendation 11:** I recommend that paragraph 9 remains in the Code, as drafted and subject to adjudication.

**Recommendation 12:** I recommend that paragraphs 10 and 11 remain as drafted, and that paragraph 12 is deleted, relying instead on the registration and declaration requirements in paragraph 16 of the current Code.

**Recommendation 13:** I recommend that paragraph 13 should be retained with amended drafting but it should not be extended to prevent Members from disclosing confidential information where they judge it necessary.

**Recommendation 14:** I recommend that paragraph 14 is amended to form the principal rule for Members' use of public resources. This should make clear that Members are personally responsible and accountable for ensuring that their claims are in accordance with the rules and are always used in support of their parliamentary duties.

**Recommendation 15:** I recommend that paragraph 15 should be retained with amended drafting but continue to prohibit conduct which would impact on the House of Commons as a whole or of its Members generally.

**Recommendation 16:** I recommend that paragraph 16 is amended to make clear that declaration applies in any communications with Ministers, Members, public officials or public office holders.

**Recommendation 17:** I recommend that the final section be titled "*Upholding the Code*" and that it be amended to provide a high-level outline of the process for resolving any alleged breach of the rules of conduct.

**Recommendation 18:** I recommend that no requirement be introduced for Members to sign their commitment to the Code when they first take their seats in Parliament, but that each new Member continues to be sent a copy of the Code as part of their induction.

**Recommendation 19:** I recommend that the Code is not revised to allow complaints to be made against a Member who is a former Minister and is alleged not to have followed advice provided by the Advisory Committee on Business Appointments. That should remain a matter for the Executive to consider.

**Recommendation 20:** I recommend that the Code does not include a separate provision in relation to Members' conduct in respect of the staff of the House of Commons where a new policy for resolving such matters has recently been introduced.

## Annex 2: Draft Amended Code of Conduct

Current Code of Conduct	Amended Code of Conduct
<b>I. Purpose of the Code</b>	<b>I. Purpose of the Code</b>
<p>1. The purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the House, their constituents and the public at large by:</p> <p>a) Providing guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing</p> <p>b) Providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those duties.</p>	<p>1. The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the House, their constituents and the public at large by:</p> <p>a) establishing the standards and principles of conduct expected of all Members in undertaking their duties;</p> <p>b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and in so doing</p> <p>c) ensuring public confidence in the standards expected of all Members and in the commitment of the House to upholding these rules.</p>
<b>II. Scope of the Code</b>	<b>II. Scope of the Code</b>
<p>2. The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.</p>	<p>2. The Code applies to a Member's conduct which relates in any way to their membership of the House. The Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally.</p>
<p>3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.</p>	<p>3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.</p>
<b>III. Public Duties of Members</b>	<b>III. Duties of Members</b>
<p>4. By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.</p>	<p>4. By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.</p>
<p>5. Members have a duty to uphold the law, including the general law against discrimination, and to act on all occasions in accordance with the public trust placed in them.</p>	<p>5. Members have a duty to uphold the law, including the general law against discrimination.</p>
<p>6. Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.</p>	<p>6. Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.</p>
	<p>7. Members should act on all occasions in accordance with the public trust placed in them.</p>

Current Code of Conduct	Amended Code of Conduct
/	They should always behave with probity and integrity, including in their use of public resources.
<b>IV. General Principles of Conduct</b>	<b>IV. General Principles of Conduct</b>
7. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office. <sup>18</sup> These principles will be taken into consideration when any complaint is received of breaches of the provisions in other sections of the Code.	8. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office. <sup>19</sup> These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct in Part V of the Code.
<i>“Selflessness</i> Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.	<i>“Selflessness</i> Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
<i>Integrity</i> Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.	<i>Integrity</i> Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
<i>Objectivity</i> In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.	<i>Objectivity</i> In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
<i>Accountability</i> Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.	<i>Accountability</i> Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
<i>Openness</i> Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.	<i>Openness</i> Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
<i>Honesty</i> Holders of public office have a duty to declare any private interests relating to their public	<i>Honesty</i> Holders of public office have a duty to declare any private interests relating to their public

18 Cm 2850-I, p 14

19 Cm 2850-I, p 14

Current Code of Conduct	Amended Code of Conduct
duties and to take steps to resolve any conflicts arising in a way that protects the public interest.	duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
<i>Leadership</i> Holders of public office should promote and support these principles by leadership and example.”	<i>Leadership</i> Holders of public office should promote and support these principles by leadership and example.”
<b>V. Rules of Conduct</b>	<b>V. Rules of Conduct</b>
8. Members are expected in particular to observe the following rules and associated Resolutions of the House.	9. Members are expected to observe the following rules and associated Resolutions of the House.
9. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.	10. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
10. No Member shall act as a paid advocate in any proceeding of the House. <sup>20</sup>	11. No Member shall act as a paid advocate in any proceeding of the House. <sup>21</sup>
11. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament. <sup>22</sup>	12. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament. <sup>23</sup>
<i>See paragraph 16 below</i>	13. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members’ Financial Interests. They shall always be open and frank in drawing attention to any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.
12. In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.	

20 Resolution of 6 November 1995

21 Resolution of 6 November 1995

22 Resolutions of 2 May 1695, 22 June 1858, and 15 July 1947 as amended on 6 November 1995 and 14 May 2002

23 Resolutions of 2 May 1695, 22 June 1858, and 15 July 1947 as amended on 6 November 1995 and 14 May 2002

Current Code of Conduct	Amended Code of Conduct
13. Members must bear in mind that information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain.	14. Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. Such information must never be used for the purpose of financial gain.
14. Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.	15. Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties and never otherwise confers any benefit—whether personal, financial or political—on themselves or on anyone else.
15. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.	16. Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.
<b>VI. Registration and Declaration of Interests</b>	
16. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies. <sup>24</sup>	<i>See paragraph 13 above</i>
<b>VII. Duties in respect of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges</b>	<b>VI. Upholding the Code</b>
17. The application of this Code shall be a matter for the House of Commons, and for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.	17. The application of this Code shall be a matter for the House of Commons, and particularly for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.
18. Members shall cooperate, at all stages, with any investigation into their conduct by or under the authority of the House.	18. The Commissioner may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code. Members shall cooperate, at all stages, with any such investigation by or under the authority of the

<sup>24</sup> Resolutions of the House of 22 May 1974, 12 June 1975 as amended on 19 July 1995, 12 June 1975, 17 December 1985, 6 November 1995 as amended on 14 May 2002, and 13 July 1992

Current Code of Conduct	Amended Code of Conduct
	House. No Member shall lobby a member of the Committee in a manner calculated or intended to influence its consideration of an alleged breach of this Code.
19. No Member shall lobby a member of the Committee on Standards and Privileges in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code.	19. The Committee will consider any report from the Commissioner to it and report its conclusions and recommendations to the House. The House may impose a sanction on the Member where it considers it necessary.



## Annex 3: List of consultation respondents

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Rt Hon David Blunkett MP

Rt Hon John F Spellar MP

Dr Richard Taylor FRCP (former Member)

Committee on Standards in Public Life

Dr Bob Chilton, Chairman of Standards for England

Mr Tom Frawley CBE, Assembly Ombudsman for Northern Ireland & Northern Ireland  
Commissioner for Complaints

House of Commons Trade Union Side

Rt Hon Ann Widdecombe (former Member)

Rt Hon Sir George Young Bt MP—Leader of the House

Emeritus Professor Michael Rush and Dr Philip Giddings

Parliamentary Labour Party

Mr Bill Givens—Democracy Trust

Mr Stuart Allan—Public Standards Commissioner for Scotland

Mr Colin Port—Chief Constable, Avon and Somerset Constabulary

Lord Lang of Monkton, Chairman of Advisory Committee on Business Appointments

Rt Hon John Healey MP

Mr Paul Kernaghan CBE QPM, Commissioner for Standards, House of Lords

Sir Gus O'Donnell GCB, Secretary of the Cabinet

Mr Andrew Walker CPFA—Director-General, Department for HR and Change, House of Commons

*\*Listed in order of contribution received*

# Formal Minutes

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**Tuesday 1 November 2011**

Members present:

Mr Kevin Barron, in the Chair

Sir Paul Beresford  
Annette Brooke  
Mr Geoffrey Cox  
Matthew Hancock

Mr Oliver Heald  
Heather Wheeler  
Dr Alan Whitehead

Draft Report (*Review of the Code of Conduct*), 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 19 read and agreed to.

Paragraph 20 read, amended and agreed to.

Paragraph 21 read and agreed to.

Annex agreed to.

A Paper was appended to the Report.

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

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

[Adjourned till Tuesday 8 November at 9.30 am