



HOUSE OF LORDS

Conduct Committee

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3rd Report of Session 2021–22

**The conduct of Lord  
James of Blackheath,  
Lord Kalms, Lord  
Willoughby de Broke  
and Baroness Mone**

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The Conduct Committee reviews and oversees the Codes of Conduct and the work of the House of Lords Commissioner for Standards. Recommended changes to the Codes are reported to the House and take effect when agreed by the House.

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# The conduct of Lord James of Blackheath, Lord Kalms, Lord Willoughby de Broke and Baroness Mone

## REPORT FROM THE CONDUCT COMMITTEE

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### Introduction

1. Valuing Everyone is a Parliament-wide training programme. It is designed to help ensure that everyone working in Parliament is able to recognise bullying, harassment and sexual misconduct, and feels confident taking action to tackle and prevent it. The House agreed on 3 November 2020 that it should be mandatory for all members of the House to attend the training by 1 April 2021.
2. Those members who did not attend the training by that date were referred to the then Commissioner for Standards. Some members were excused from investigation due to exceptional circumstances. Most of the other members agreed remedial action with the Commissioner.<sup>1</sup> The Commissioner published her report on these cases on 21 May 2021 on the parliamentary website.<sup>2</sup>
3. Of those referred to the Commissioner, four cases could not be resolved by remedial action:
  - Lord James of Blackheath;
  - Lord Kalms;
  - Lord Willoughby de Broke; and
  - Baroness Mone.
4. The Commissioner's report on these four members is included at Annex A. It sets out her findings that in each case the Code of Conduct was breached as each member failed to attend the Valuing Everyone training by 1 April 2021.
5. In the cases of Lord James of Blackheath, Lord Kalms and Lord Willoughby de Broke, the Commissioner found that they had no reasonable intention of complying with the Code and attending the training. She therefore recommended that they be sanctioned. Her recommended sanction was that their access to certain facilities of the House be suspended and their access to certain procedural and business services be restricted.

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1 Remedial action is the appropriate outcome where the breach of the Code of Conduct is minor and acknowledged. Where members either had done or booked to do the training after 1 April, or had given a firm commitment to do the training at the earliest opportunity, the Commissioner considered this to be acknowledgment of the breach.

2 See Report from the Commissioner for Standards, *Failure to attend Valuing Everyone training*, Commissioner Report 2020-21/16: <https://www.parliament.uk/globalassets/documents/lords-commissioner-for-standards/report-valuing-everyone-training-18-05-21.pdf>

6. In the case of Baroness Mone, the Commissioner found that, despite missing the deadline, she had been willing to attend the training and had done so in the course of the investigation. It was only the terms of Baroness Mone's response to the investigation that meant she was not included in the remedial action report. The Commissioner therefore recommended no sanction be applied.
7. The Commissioner reported her findings and recommendations to us on 28 May 2021, thereby completing her work on this matter. All four members were given until 11 June to appeal the Commissioner's conclusions.

### **Appeals**

8. Lord James of Blackheath appealed the Commissioner's findings and sanction. Lord Kalms notified us of his intention to submit an appeal, but did not do so. He did send us an email one week after the deadline, but it was not an appeal. Lord Willoughby de Broke and Baroness Mone did not appeal.

#### *Lord James of Blackheath's appeal*

9. Lord James submitted a detailed appeal (see Appendix 1). In it he repeated concerns he had raised with the Clerk of the Parliaments and with the Commissioner about the impact of the Valuing Everyone training on his freedom of speech and, consequently, on his duties under his Oath to the Queen.
10. He objected to any implication that he had outright refused to attend the training, stating that he had always been "willing to cooperate but only on the strict condition that it could be shown to me conclusively that no such participation in this training course could place me in jeopardy of perjury by being in default of my Loyal Oath".
11. Although he did not explicitly refer to the Code's grounds for appeal, we understood his appeal to be on the basis that the Commissioner was plainly wrong in her findings.<sup>3</sup>
12. We considered Lord James's appeal and concluded that it did not justify finding the Commissioner to have been plainly wrong.
13. We rejected Lord James' arguments on two counts:
  - He contended that the Valuing Everyone training would limit his freedom of speech. The training does not restrict freedom of speech. It is designed to help ensure that everyone working in Parliament is able to recognise bullying, harassment and sexual misconduct, and feels confident taking action to tackle and prevent it. Even if it were accepted that the training put a limit on freedom of speech, it could only do so to the extent that the Code already prohibits bullying, harassment and sexual misconduct.
  - The legal references cited by Lord James concerned members' right to speak freely without interference from outside Parliament. They are

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<sup>3</sup> As set out in the Guide to the Code of Conduct, the possible grounds for appeal are the Commissioner was plainly wrong in her finding; points of process; the emergence of significant new evidence; or the severity of the sanction.

not relevant to the current case, which concerns the House's regulation of its own members.

14. As Appendix 1 of the Commissioner's report records, both of these points were explained very clearly to Lord James by the Clerk of the Parliaments.
15. **We therefore dismiss Lord James' appeal.**

### Sanctions

#### *Lord James of Blackheath, Lord Kalms and Lord Willoughby de Broke*

16. The Valuing Everyone training is focussed on ensuring behaviour towards other members of the parliamentary community is appropriate. While there is no suggestion that Lord James, Lord Kalms or Lord Willoughby de Broke have behaved inappropriately to members of the parliamentary community, their failure to attend the training or give any reasonable indication that they will do so requires some sanction if the Code is to have any value.
17. **We therefore recommend that Lord James of Blackheath, Lord Kalms and Lord Willoughby de Broke be denied access to certain facilities of the House and be restricted in their access to certain services until they have completed the Valuing Everyone training. We further recommend that they be required to complete the training within one month of the House approving this sanction.**
18. **In her report, the Commissioner set out the facilities and services affected by this sanction:**

"I therefore recommend that they should be denied access to:

- dining and banqueting facilities;
- the Library, including research services; and
- bookable meeting rooms.

I recommend that their access to business and procedural services of the House of Lords should be limited to email contact only.<sup>4</sup> These services include, but are not limited to:

- Black Rod's Office;
- the Clerk of the Parliaments' Office;
- the private offices of House office-holders, including the Lord Speaker, the Senior Deputy Speaker, and the party and group leaders;<sup>5</sup>
- the Finance Department;
- the Journal Office, including the Table Office, the Printed Paper Office, and the Office of the Registrar of Lords' Interests;

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4 Email addresses can be found in the Handbook on facilities and services for members and their staff, available on the parliamentary intranet.

5 I recognise that members have the right to interact with the House's office holders and that this may require some face-to-face contact with staff members. However, this should be kept to a minimum and every effort should be made to make arrangements via email.

- the Legislation Office; and
- the Parliamentary Digital Service.”

19. **We believe the measures outlined above strike the right balance between reducing these members’ interactions with others in the parliamentary community until they have completed the training, and protecting their ability to carry out any parliamentary duties.**

*Baroness Mone*

20. Since the Commissioner’s investigations began, Baroness Mone has attended the Valuing Everyone training and the evidence clearly shows that she was willing to attend once she became aware of the requirement. However, this does not mean she did not breach the Code: the House set the deadline of 1 April 2021, and Baroness Mone did not meet this deadline. Baroness Mone said that she attempted to book a place on the course before the deadline but received no reply. In fact, while she did email before the deadline, she was sent a reply on the same day to which she appears not to have responded.
21. However, had it not been for the terms of Baroness Mone’s response to the investigation, we would have agreed with the Commissioner’s initial intention of including Baroness Mone in the earlier, remedial action report.
22. **In the light of this, we agree that no sanction is required in the case of Baroness Mone.**

**Comments on criticism of Valuing Everyone**

23. Over recent weeks there has been some criticism of the requirement for members to attend the Valuing Everyone course and of the Commissioner’s investigations. It may be useful to the House for us to respond formally to some of the points raised.

*The content of the Valuing Everyone course is irrelevant to / unnecessary for members of the House of Lords*

24. As noted above, Valuing Everyone is a Parliament-wide training programme. Some have however criticised the training as unnecessary for members of the House since only a minority of them behave inappropriately, and the training would be ineffective at changing the behaviour of those members.
25. It has never been the suggestion that the majority of members of the House are likely to bully, harass or otherwise act inappropriately. The course is designed not just to lead the few who engage in such behaviour to appreciate its inappropriateness, but above all to help ensure that everyone working in Parliament is able to recognise bullying, harassment and sexual misconduct, and feels confident taking action to tackle and prevent it.
26. Where members are found to have breached the bullying, harassment or sexual misconduct provisions of the Code, there is detailed, bespoke, one-on-one coaching available to attempt to achieve long-term changes in their behaviour. This training has already been used in respect of several members. It is quite different to the Valuing Everyone training.
27. The content of the Valuing Everyone training has been criticised as not being specific to situations and circumstances relevant to members of the

House. This was true of some of the earlier sessions. Useful feedback was gathered and the course was updated and improved. Whereas earlier in the process members attended a course that was “one size fits all” for members of the parliamentary community, the course now promoted to members is specifically for members of the House. Staff and MPs attend a course with slightly different content.

28. One aspect of the sessions aimed at members of this House is the scenarios involving the fictional Lord Adams. These have been criticised as being unrealistic. Sadly, these scenarios have been based on real incidents involving members of the House. Details have been amended so as to protect the anonymity of those who have experienced similar behaviour in real-life, but they do reflect actual behaviour that has unfortunately occurred in the House.
29. Some have criticised the Lord Adams scenarios as showing behaviour that would either be challenged by members if witnessed or rejected by staff. Unfortunately, experience suggests that this has not been the case. Had such behaviour been dealt with effectively in the past, either by members of the House or through staff channels, it may not have been necessary for both Houses to adopt the Independent Complaints and Grievances Scheme. Not only do the Lord Adams scenarios reflect genuine behaviour, it is behaviour that has previously gone unchallenged.
30. That some have considered these scenarios unrealistic underscores the need for such awareness-raising training.

*Effective complaints handling would be more effective*

31. It has also been suggested that more could be done to ensure inappropriate behaviour is addressed by having suitable processes for reporting and investigating complaints. Such processes are already in place. Provisions relating to bullying, harassment and sexual misconduct were incorporated into the Code of Conduct in April 2019. As a result, 18 complaints about members of the House have been investigated and reported on, with proposed sanctions ranging from expulsion through to findings of no breach.
32. However, it is not appropriate simply to rely on those subject to the poor conduct to report it when it occurs. Members of the House—particularly given its self-regulating nature and the obvious power imbalance between members and staff—must play their part in recognising and challenging poor behaviour. The Valuing Everyone training has been part of the process of seeking to equip all members to recognise and be able to challenge such behaviour.

*Cost of Valuing Everyone training*

33. The cost to the House of Lords has been well below the various totals that have been canvassed publicly. The House contributed around 30% to the development and testing of the Valuing Everyone courses for members and staff of the House. This amounts to around £50,000. The additional cost of delivering sessions specifically to members of the House has been around £50,000.

*The course has not been made mandatory for MPs*

34. As a starting point, we would note that each House is independent of the other. That one House takes a certain decision is not, in itself, reason for the other House to follow suit.
35. Factors which we considered when making our recommendation that Valuing Everyone be mandatory for members of this House included these:
- Mandatory training had consistently been recommended by Alison Stanley’s review, which addressed the position in both Houses, as well as by the Naomi Ellenbogen QC review and the Steering Group for Change, which were concerned only with the House of Lords;
  - As members appointed for life, peers are not subject to the scrutiny and democratic accountability of elected MPs, so the responsibility to ensure that our own processes of self-regulation are robust is all the more acute;
  - The course had been available to members of the House from the start of 2020 on a voluntary basis, but this approach had not proved sufficiently successful. When we proposed making the training mandatory, 47.8 per cent of the membership of the House of Lords had attended.<sup>6</sup>
  - Further incidents of inappropriate behaviour would have been particularly damaging to the House and its reputation if they involved a member or members who had not undertaken the training.

*Most members who have attended the training have provided negative feedback*

36. This is not the case. The majority of feedback from members has been positive.
37. As at 9 June, 763 Members of the House of Lords had completed Valuing Everyone training. Of these, 492 completed an evaluation form. In response to the question ‘Would you recommend the course to others?’, 460 Members out of 485 (95%) answered ‘yes’. In response to the question ‘Please rate your level of confidence calling out unacceptable behaviour AFTER the course’, 447 Members out of 485 (92%) answered ‘very good’ or ‘good’.

*The Commissioner threatened members with contempt of the House or severe sanctions*

38. The Commissioner’s letter to members on 15 April was included in her earlier report.
39. As she explained in that report, the letter followed the usual format for launching an investigation:
- Her letter requested “a full and accurate account of the matters in question”. This mirrored the provisions of the Guide to the Code which require her to write to members to request “a full and accurate account of the matters in question” (see paragraph 145).
  - Her letter quoted paragraph 144 of the Guide to the Code, which sets out the position on confidentiality and contempt.

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6 For comparison, the voluntary approach in the House of Commons has resulted in 92 per cent of MPs voluntarily attending the course.

- Her letter explained that brief details would be published on the parliamentary website. This is a requirement of paragraph 133 of the Guide to the Code.
40. The letter also included a reference to the provisions set out in the report agreed by the House that she would write to those referred to her to seek an explanation and that (in the words of our report) “unless there are extenuating circumstances, she will consider restricting their access to certain services until training is complete and seek to agree that they attend the training as remedial action.”<sup>7</sup>
41. We recognise that receiving a letter launching an investigation under the Code is unwelcome and may be distressing to some members. However, to describe such a letter as threatening is hyperbolic. The Commissioner would have been remiss if she had not drawn members’ attention to these relevant provisions.

*The Commissioner was wrong to investigate members who were unwell*

42. As set out in her earlier report, the Commissioner went through a process of ascertaining whether members might be subject to exceptional circumstances, involving in this the offices of the main political parties and the crossbench peers. Where she was made aware of exceptional circumstances at that stage, she excused those members from investigation. In seven cases, she became aware of exceptional circumstances in the course of her investigations and excused those members from investigation (though she also noted that two such members had since done the training despite their exceptional circumstances).
43. In following this process, the Commissioner carried out the task set for her by the House when it agreed our report.

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<sup>7</sup> Conduct Committee, *Valuing Everyone training; ICGS investigations: former MPs* (5th Report, Session 2019–21, HL Paper 158), para 11. The previous paragraph of our report also read: “10. The Commissioner will open an inquiry into the members referred to her, though she shall be empowered to excuse particular members from investigation due to exceptional circumstances such as ongoing serious health problems”.



# Annex A: Report by the House of Lords Commissioner for Standards on failure to attend Valuing Everyone training: Lord James of Blackheath, Lord Kalms, Lord Willoughby de Broke and Baroness Mone

## INTRODUCTION

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1. Valuing Everyone is a Parliament-wide training programme. It is designed to help ensure that everyone working in Parliament is able to recognise bullying, harassment and sexual misconduct, and feels confident taking action to tackle and prevent it.
2. On 3 November 2020, following a short debate, the House agreed without anyone calling a vote to a recommendation of the Conduct Committee to make attendance at the training mandatory for all members. The proposal followed recommendations to this effect in the independent review of bullying and harassment in the House of Lords by Naomi Ellenbogen QC and Alison Stanley's 6-month and 18-month reviews of the Independent Complaints and Grievance Scheme (ICGS).
3. Further to the provisions agreed by the House, members who failed to attend the course by 1 April 2021 were referred to me for investigation.
4. On 18 May 2021, I published a report covering 56 of the members referred to me. That report covered those cases which could be resolved by remedial action and those members whom I excused from investigation due to their exceptional circumstances.<sup>8</sup>
5. Where a breach of the Code cannot be resolved by remedial action, I must report my findings to the Conduct Committee with a recommendation for sanction.
6. This report covers the remaining four members who were referred to me but could not be included in my earlier report:
  - Lord James of Blackheath;
  - Lord Kalms;
  - Lord Willoughby de Broke; and
  - Baroness Mone.

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<sup>8</sup> *Failure to attend Valuing Everyone training*, Commissioner Report 2020-21/16 (<https://www.parliament.uk/globalassets/documents/lords-commissioner-for-standards/report-valuing-everyone-training-18-05-21.pdf>)

7. I wrote to each on 15 April 2021, inviting them to set out why they had failed to attend the training.
8. I received replies from Lord Kalms and Lord Willoughby de Broke (see below). I received no response from Lord James of Blackheath to my letter or to the reminder that my office sent him on 28 April. Baroness Mone replied to my letter of 15 April promptly but, as set out below, despite this it was not possible to resolve her case by remedial action.
9. I wrote to Lord James, Lord Kalms and Lord Willoughby de Broke again on 17 May and to Baroness Mone on 18 May. I explained that I must refer their cases to the Conduct Committee. In accordance with the Code I asked whether they wished to submit any material for me to take into account when considering an appropriate sanction to recommend to the Conduct Committee.

### **Lord James of Blackheath**

10. In response to my letter of 17 May, Lord James replied:

“I acknowledge receipt of your letter dated 17 April [*sic*] and concur that this specifies that the deadline for a response to you on this matter expires at 5pm today,

You may be aware, however, that I have been engaged in a lengthy correspondence with the Clerk of the Parliaments in this matter in the course of which I have several times reiterated that I am not refusing to participate in this training process but that I must first insist on being satisfied that this will not cause me to be in breach of my Oath of Allegiance on joining the House of Lords as reconfirmed on various occasions subsequently.

Integral to this concern is my continuing anxiety that no part of this process might occasion a situation whereby our Sovereign Lady Queen Elizabeth II is placed in a breach of Her Coronation Oath.

Accordingly, while these points remain unresolved, I would ask you to recognise this as constituting a formal response to your requirement within the specified time limit whilst I look forward to its ultimate resolution in detail as soon as possible hereafter.”

11. In a further letter, Lord James confirmed that the matters he had raised with the Clerk of the Parliaments constituted “almost the entire core of any justification I would offer”.
12. With Lord James’s permission, the Clerk of the Parliaments provided me with copies of correspondence he and his predecessor had had with Lord James (see Appendix 1). In this correspondence, Lord James appeared to seek to make a legal argument about the validity of the requirement in the Code for him to undertake the training. His letters include a commitment to attend the training, but only subject to his legal arguments being met to his satisfaction.

### *Analysis and outcome*

13. My role is to enforce the Code as agreed by the House; I play no part in setting the requirements in the Code. The matters raised by Lord James in

his correspondence with the Clerk of the Parliaments are, therefore, beyond my remit to comment. However, the correspondence does indicate clearly that Lord James was aware of the training and the requirement under the Code to attend. It is not contested that Lord James failed to meet the deadline set by the House. No valid extenuating or exceptional circumstances have been presented.

14. Although he says he is not refusing to attend the training, Lord James' response suggests he has no reasonable intention of complying with the Code. At the start of each Parliament, every member signs an undertaking to abide by the Code. Members cannot make their conformity to the Code conditional on their own criteria.
15. **I therefore find Lord James to be in breach of the Code.**
16. *I recommend that Lord James be denied access to certain facilities of the House and abide by restrictions to his access to certain services until he has completed the Valuing Everyone training. I further recommend that he be required to complete the training within one month of the publication of this report.*
17. Further details on the facilities and services affected by this recommendation are set out at paragraphs 35–40 below.

### Lord Kalms

18. Lord Kalms replied to my letter of 15 April after receiving a reminder from my office on 28 April. There followed a brief exchange of correspondence (see Appendix 2).
19. In his emails, Lord Kalms queried how the requirement had been added to the Code and on what basis members might be sanctioned:

“How was this instruction approved in the Lords - I completely missed it. And under what powers has the House to ban a member on the basis they proposed - lack of training. Does this mean the house could approve other embargo, say for instance no training in nuclear technology, or not being able to read a balance sheet.

[ ... ]

With the verbiage on my Coat of Arms given under the hand of Her Majesty the Queen, being a life peer grants the right to sit in the Lords - exemption perhaps for serious misdemeanors, but not for obscure and contemporary issues.

Or have I misunderstood some essential fact.”

20. I replied to respond to the issues of process raised. In his reply to took issue with the deadline I had set for a substantive response,<sup>9</sup> noting “I only have limited access to secretarial services, and that I do not personally correspond by email.” He also commented on the Valuing Everyone training:

“Of course I 100% agree with a code of conduct, on abuse in whatever form it takes. My whole career was based on ethical values. If you care

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<sup>9</sup> My letter of 15 April, resent on 28 April, set a deadline of 30 April. As result of his emails I extended this deadline to 7 May and then to 12 May (when I anticipated finalising my first report).

to cast an eye on my career I was founder of Dixons, and grew it from 1 employee in 1948 to over 35,000 when I retired at 72. During that period I was the forefront of female equal rights and pay well ahead of legalisation. Racial equality was never an issue.

My mother was born in Poland, and my grandparents were Russian refugees. I consider myself to be an authority on corporate behaviour as any research will confirm.

However racial equality is a complex and contentive issue, as to whether we have unlimited immigration, how it might be controlled, and whether we are a multi cultural or a mixed ethnic society.

These are major political issues which will take a long period to find the safe ground. This is absolutely not the right of any committee of the Lords to interfere, advise or control members considered views, under a heading of racism. It would be a major offence to interfere with parliamentary views by threats.

And finally, and I use this word intentionally, how dare your committee introduce the word training.

Pets are trained.

Students are taught.

Mature citizens have discussions, debates, to find if possible a consensus, and if not agree to differ.”

21. I replied to explain that these were matters beyond my remit and again to ask for a substantive response to why he had failed to meet the 1 April deadline. Lord Kalms replied:

“As your role is only to enforce - not to respond to facts or measured argument then there is clearly no purpose in continuing our communications.”

22. I received no reply to my letter of 17 May.

### *Analysis and outcome*

23. It is not contested that Lord Kalms failed to meet the deadline set by the House. No valid extenuating or exceptional circumstances have been presented. His response to my investigation suggests he has no intention of complying with the Code.
24. **I therefore find Lord Kalms to be in breach of the Code.**
25. ***I recommend that Lord Kalms be denied access to certain facilities of the House and abide by restrictions to his access to certain services until he has completed the Valuing Everyone training. I further recommend that he be required to complete the training within one month of the publication of this report.***
26. Further details on the facilities and services affected by this recommendation are set out at paragraphs 35–40 below.

### Lord Willoughby de Broke

27. Lord Willoughby de Broke replied to my email of 15 April on 20 April. In this response he appeared to be willing to attend the training, saying “Obviously I want to Value Everyone so will find out how I may sign up to this important training. I will of course keep you informed”. I therefore provided him with details of how to book onto a session. I also asked him whether he wished to provide a reason to explain his failure to attend the training.
28. In response he wrote that, on reflection, he did not consider himself to be “suitable training material”:
- “I consider the idea that we should be trained to value everyone is wholly misguided. I do not like the expression “virtue-signalling” but this does seem - to me at least - an example of what I take that to mean. However much training I get I will never value everyone; as an example I will never be able to value murderous terrorists, however many re-education or self-criticism camps I am requires to attend.
- So rather than waste the trainers’ time I prefer to opt out.”
29. I confirmed with him that this email meant he would not undertake the training, explaining that this would leave him in breach of the Code and require a report to the Conduct Committee. He replied, “I confirm that I do not intend to take the Valuing Everyone training.”
30. In response to my letter of 17 May, Lord Willoughby replied:
- “I acknowledge receipt of your letter of 17th May.
- I have nothing further to add to our earlier correspondence.”

### *Analysis and outcome*

31. It is not contested that Lord Willoughby de Broke failed to meet the deadline set by the House. No valid extenuating or exceptional circumstances have been presented. His response to my investigation is clear that he has no intention of complying with the Code.
32. **I therefore find Lord Willoughby de Broke to be in breach of the Code.**
33. ***I recommend that Lord Willoughby de Broke be denied access to certain facilities of the House and abide by restrictions to his access to certain services until he has completed the Valuing Everyone training. I further recommend that he be required to complete the training within one month of the publication of this report.***
34. Further details on the facilities and services affected by this recommendation are set out at paragraphs 35–40 below.

### Services and facilities

35. The Guide to the Code of Conduct allows for denial of “access for a specified period to the facilities and services of the House, including services closely related to parliamentary proceedings and membership of select committees”.
36. In previous iterations of the Code, “facilities” have been set out as:
- dining and banqueting facilities;

- car parking;
  - the Library, including research services;
  - ICT equipment, supplies, network accounts and support;
  - bookable meeting rooms;
  - individual desk space;
  - personalised stationery; and
  - pre-paid postage envelopes.
37. The Valuing Everyone training is focussed on ensuring behaviour towards other members of the parliamentary community is appropriate. While there is no suggestion that Lord James, Lord Kalms or Lord Willoughby de Broke have behaved inappropriately to members of the parliamentary community, their failure to attend the training or give any reasonable indication that they will do so requires some sanction if the Code is to have any value.
38. The Conduct Committee's report on making the training mandatory invited me to consider restricting access to certain services until training is complete in the case of those members willing to resolve their breach by remedial action. I did not consider this a necessary step in those cases. However, I consider it a proportionate sanction that until Lord James, Lord Kalms and Lord Willoughby de Broke have attended the training, the House deny or restrict their access to those services and facilities that would bring them most closely into contact with other members of the parliamentary community.
39. I therefore recommend that they should be denied access to:
- dining and banqueting facilities;
  - the Library, including research services; and
  - bookable meeting rooms.
40. I recommend that their access to business and procedural services of the House of Lords should be limited to email contact only.<sup>10</sup> These services include, but are not limited to:
- Black Rod's Office;
  - the Clerk of the Parliaments' Office;
  - the private offices of House office holders, including the Lord Speaker, Senior Deputy Speaker, and the party and group leaders;<sup>11</sup>
  - the Finance Department;
  - the Journal Office, including the Table Office, the Printed Paper Office, and the Office of the Registrar of Lords' Interests;

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10 Email addresses can be found in the Handbook on facilities and services for members and their staff, available on the parliamentary intranet: <https://intranet.parliament.uk/Documents/intranet/administration/HLHandbook/HLHandbookforMembers.pdf>

11 I recognise that members have the right to interact with the House's office holders and that this may require some face-to-face contact with staff members. However, this should be kept to a minimum and every effort should be made to make arrangements via email.

- the Legislation Office; and
- the Parliamentary Digital Service.

### Baroness Mone

41. Baroness Mone informed me that she had attempted to book herself on to the Valuing Everyone training but had received no reply to her emails to the Lords ICGS Implementation Lead.<sup>12</sup> I asked for copies of the relevant emails to corroborate this, but she did not provide them. Despite this, I considered Baroness Mone’s case suitable for remedial action as the Lords ICGS Implementation Lead confirmed that she had since made a booking to attend the course.
42. Accordingly, I included Baroness Mone in my first report. As is my longstanding practice, I sent a copy of this report to those members named in it the day before publication.
43. Baroness Mone replied to say:
- “I want me name taken out of this report with immediate effect!
- This will be front page news and I am NOT prepared to accept this.
- I replied immediately to book my training & was ignored. After chasing many times I finally got my date for training.
- I will ensure the press know this.
- Now take me out of this ASAP as I will not stand for this lie.”
44. We corresponded further. I sought to explain that my report accepted that she had made efforts to attend the course and that she had since made a firm booking; it was on these grounds that I considered her case could, with the other 47 members, be resolved by remedial action. I explained that as I had found her to be in breach of the Code, she therefore needed to “indicate clearly whether you wish to be included in this report which covers members for whom remedial action is the outcome or whether you would wish me to report your case to the Conduct Committee.” Baroness Mone replied:
- “Yes report my case and state the facts!
- You will not trash my name as this is totally unjustified.”
45. I understood this reply to mean that she wished me to “report my case” to the Conduct Committee and removed her name from my earlier report.
46. In conversation with my office the following day it appeared that Baroness Mone had in fact wished to be included in the remedial action report but with details of her specific circumstances set out in full. Had I understood that from her emails, it is not something I could have agreed to. The report on 17 May set out broad summaries of the extenuating circumstances presented by the 47 members it covered. It would have been disproportionate to the breach

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12 The ICGS is the Independent Complaints and Grievances Scheme. Established in 2019, it is Parliament’s mechanism for handling complaints of bullying, harassment or sexual misconduct. Its standards apply to all members of the parliamentary community. The Lords ICGS Implementation Lead has been responsible for making the arrangements for members to attend the Valuing Everyone sessions.

and outcome to seek to set out each member's particular circumstances in full, and it would have been inappropriate to seek to do so for one member but not others. In addition, at that point Baroness Mone had not provided me with any of the corroborative evidence necessary for me to take a detailed view on her attempts to book a session before the deadline.

47. In three emails to me on 18 May,<sup>13</sup> Baroness Mone set out her circumstances:

“I would also like to add to the following:

1. As I said my parliamentary email address isn't working, the technical department at The House of Lords is aware of this

2. I was never contacted on my personal mobile number which you guys have

3. I receive over 2,000 emails per day. Anything urgent everyone knows to contact my PA which was never done

4. As soon as I received the email into my inbox I replied. I never heard anything back and contacted Patrick ccd in above, Patrick then contacted the correct person and still no reply<sup>14</sup>

5. My training was booked as soon as I was given dates

As I said I am being blamed for something that was not my doing.”

“This is 100% not my fault

The emails were being sent to my parliamentary email address which is not working, they know this fine well. Due to Covid this is still not working

As soon as I received the email into my personal email address I tried several times to book the training

I made many attempts to book the training before the deadline

The team has my mobile number but never called

The team know my PA's details but never contacted her”

and:

“You were also aware that I was very ill with Covid but as always I replied to all emails on this subject within minutes!”

48. Baroness Mone also considered that because of these factors, the investigation into her breach of the Code was not justified:

“I have done absolutely nothing wrong and I will 100% defend myself to the media. You will not throw me under a bus for doing nothing wrong.”

49. She then sent copies of emails she had sent concerning her attempts to book a training session. I also requested and received copies of relevant emails

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<sup>13</sup> Between 18 and 24 May I received 10 emails from Baroness Mone, some in response to messages from me. Where emails are not quoted in this report, it is because they did not add to the substance of her response.

<sup>14</sup> Patrick is the Earl of Courtown, Government Deputy Chief Whip

from the Earl of Courtown<sup>15</sup> and the Lords ICGS Implementation Lead. A chronological compilation of these emails is included in Appendix 3.

50. The most relevant emails were sent and received on 17 March 2021. They began with the Earl of Courtown contacting Baroness Mone to ensure she was aware of the requirement to attend the training. Baroness Mone then contacted the Lords ICGS Implementation Lead to request a place on the course. The Lords ICGS Implementation Lead replied later that day to offer five possible options.
51. There is no record of Baroness Mone having responded to the email from the ICGS Implementation Lead. In correspondence with me Baroness Mone said:
- “I chased on the phone and left messages. As I have explained the 1st email that I received from [the Lords ICGS Implementation Lead] was on 23rd April”.
52. On 23 April, the Government Whips’ Office contacted the Lords ICGS Implementation Lead on Baroness Mone’s behalf to inquire about possible dates. Arrangements were made and Baroness Mone attended a Valuing Everyone session on 19 May 2021.

### *Analysis*

53. Throughout her correspondence Baroness Mone objected in strong terms to being considered in breach of the Code.
54. On 20 May I wrote to clarify whether she considered that there were exceptional circumstances that ought to excuse her from investigation for having failed to meet the 1 April deadline. On 24 May, she replied:
- “yes this is correct and I have already given you all the evidence  
There is no issue here so please stop trying to create one.”
55. As set out above, in the course of her emails to me, Baroness Mone prayed in aid various factors to explain why she should not be considered in breach of the Code. In the light of her reply of 24 May, I considered whether these factors, taken together, could be said to amount to exceptional circumstances. I concluded that they could not.
56. As I said in my earlier report, members who maintain an active membership of the House have a clear responsibility to take sufficient steps to ensure they are able to remain in compliance with the Code of Conduct. The House of Lords Administration took reasonable steps to ensure all members were aware

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<sup>15</sup> Baroness Mone had referred to the Earl of Courtown in her emails to me and copied him into several. In an email to me, Lord Courtown explained, “As I am the Government Deputy Chief Whip, I have a group of our backbench peers that I keep informed of forthcoming parliamentary business and other relevant matters. Baroness Mone is a member of this group.”

of the requirement.<sup>16</sup> It is not reasonable for an individual member to expect a bespoke service on a matter like this. In addition, by 17 March Baroness Mone was aware of the requirement and had all the details necessary to arrange attending a session.

57. That no-one responded to her requests to book a session before 1 April is Baroness Mone's most significant contention. Despite her assertions that she received no reply to her email, I have seen the reply sent by the Lords ICGS Implementation Lead two hours later that same day to the same email address she had used (her personal, not parliamentary, email address). Baroness Mone has said that the first email she received from the Lords ICGS Implementation Lead was on 23 April. It may be that for some technical reason she did not receive the reply on 17 March or that she simply overlooked it; Baroness Mone has offered no explanation other than to insist that she received no reply. Baroness Mone said that she phoned to chase up making an appointment. I have no evidence of who or when she phoned.
58. With regard to having had COVID, Baroness Mone mentioned this in her email to the Earl of Courtown on 17 March, a copy of which I received on 18 May. The first reference to it in her correspondence with me was on 18 May. I was therefore not aware that she had suffered from COVID until recently. However, the material presented by Baroness Mone does not suggest that this would have prevented her from attending the training after 17 March but before 1 April.
59. It is consistent in the material I have received that Baroness Mone was willing to attend the training. Baroness Mone has said clearly that she at no point refused to attend the training. This is corroborated by the fact that she made some efforts in March to arrange a session and she has now attended the training. Her correspondence with me suggests that Baroness Mone considers these factors to mean that she is not in breach of the Code. However, as I have sought to explain in my correspondence with her, it is her failure to attend the training by the deadline set by the House that is the source of the breach.

### *Outcome*

60. As with those members dealt with in my earlier report, irrespective of any extenuating circumstances it remains the case that by failing to attend the course before the deadline Baroness Mone breached the Code of Conduct.
61. It is unfortunate that Baroness Mone's response to my investigation has at times been combative, has sought to place the responsibility for her failure to meet the requirements of the Code with others, and has failed to recognise her breach of the Code. However, the issue at hand is the breach of the Code caused by her failure to meet the deadline and I consider it would be

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<sup>16</sup> The House Administration published multiple news items on the parliamentary intranet and in members' newsletters, Parliamentary Notice emails, and monthly emails from the ICGS Implementation Lead to those who had yet to complete or book a session. These were accompanied by communications from the party whips' offices and the office of the Convenor of Crossbench Peers to the members in their groups, including via email, at group meetings, and in some cases through targeted phone calls. Most of the communications from the House Administration were sent to parliamentary accounts (with follow-up emails sent to non-parliamentary accounts where there was an automatic response to that effect). However, I understand that the party and group offices are likely to have also sent emails to members' preferred email addresses.

disproportionate to this breach to consider her approach to my investigation as a significant aggravating factor.

62. **Baroness Mone did not meet the deadline to attend the training. She is therefore in breach of the Code.**
63. **She has consistently expressed her willingness to do the training and has since done it. I consider this to be sufficient acknowledgement of the breach and sufficient remedy for it.**
64. *The purpose of the deadline was to ensure members attended the training. As Baroness Mone has now done so my recommendation is that no sanction is required.*

## APPENDIX 1: LORD JAMES OF BLACKHEATH'S CORRESPONDENCE WITH THE CLERK OF THE PARLIAMENTS

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### 18 March 2021: Lord James to the Clerk of the Parliaments

I gather from my recent conversations with my noble friend the Lord Vinson that matters are pressing forward with regard to the above and I apologise that I have not previously entered into this dialogue so my purpose in this note is to set out in some detail, my reaction to this initiative and hopefully, achieve some sort of resolution which will allow me to resume an active participation in the everyday affairs of the House of Lords once present Lockdown has been eased. My present understanding is that I have a cut off date of 7 April either by participating as seemingly commanded in this initiative or accepting that I am forever excluded from the House of Lords hereafter. This is a very big issue for me.

First, I must ask how this initiative fits into the general law, Code of Practice, and the function of the House of Lords itself: -

1. I start with a summary of my understanding of the existing Code of Practice within the House of Lords including my understanding of the actual rules governing Freedom of Speech which, in my understanding, is an absolute right laid down in the statutes of the House at least since the year 1512 when this was set in statute as a result of the Strode case and its aftermath.
2. Parliament is bound by the law. That the freedom of speech therein is utterly fundamental and protected by laws and Statutes of constitutional being and importance. It has been enshrined in the law since ancient times and enacted in 1512, and much reconfirmed. Any encroachment upon that whatsoever and howsoever is a serious and vicious Constitutional breach of the fundamentals of the mother of all Parliaments and must not be tolerated.
3. All this is in its support and is extant: -  
  
Privilege of Parliament Act 1512 (4 Hen viii c. 8), Declaration and Claim of Rights 1688 and Bill of Rights 1689, The Act of Settlement 1701, The Accession Declaration Oaths 1953. the Coronation Oath.
4. Parliamentary Code of conduct requires obedience to the Law. The Crown both in and out of Parliament is not absolved from entire obedience to its extant limitations. They are of constitutional importance and content. Explicitly, it is the fully established, individual sworn duty of all its components; Members of the Commons; Members of the Lords and the Monarch and all Officers whatsoever thereof, and for all times. Allegiance to the Crown is prerequisite duty for all.
5. The specifics of the Bill of Rights and Accession Declaration Oath exclude any diminution of its assertions, Freedom of Speech is specified therein. It is thus the Constitutionally defined Duty of Her Sovereign Majesty the Queen to maintain and uphold it to the best of Her powers Reign long.
6. Any imposition or coercion against utter freedom of Speech would violate these constitutional arrangements. It would represent a scandalous misfeasance and malfeasance in public office and place all in breach of written laws, Statutes and Oath and thus in a state of Perjury. To propose such enforcement would be a coercion to breach the law that the Monarch has Sworn to Her Subjects to uphold in Her governance.

I was concerned to read in a note sent by, I believe, yourself as The Clerk of the Parliaments to a fellow Peer to the effect that legitimacy for this process was being claimed as a result of a vote in a sitting session of the House of Lords. It seems to me to be political grooming to advance political correctness. Surely this can only be in Contempt of Statute, a most serious offence if it coerces or impinges in any way on the Freedom of Speech privilege of Parliament and must amount to a constraint on Parliament's omnipotence.

7. It is hard to understand how this could create a new law or Code of Practice unless it had followed the due process of prior repeals of the Crown's Duty, to accommodate for Royal Assent, particularly as noted above it may be seen to have been brought about to achieve a negation of existing statute law and a fundamental principle of the Bill of Rights.

I would greatly appreciate if any recipient of this note could send to me a complete set of the relevant papers for the passage of any such Bill along with confirmation that the House was duly quorate at the time of sitting and any related votes.

Subject to satisfaction of my overriding concerns I shall stop my criticism of this attempt to curtail the freedom of speech when in Parliament but these two concerns have to be fully demonstrated:

- (a) That due Parliamentary process was followed as to publication of a Bill and convening to process a proper passage of all stages, and
  - (b) That if Royal Assent was achieved that Her Majesty had been made fully cognisant of the Bill and its constitutional significance in changing more than six hundred years of established freedom of speech within Parliament
8. Subject to these elements being corroborated I will then be content to cooperate by processing what I understand to be a 2-hour zoom process presentation of your 2-hour training course.

But my conditions above are important as I believe we are dangerously close to two other issues which impact upon the critical question of our sovereignty and the extent to which this is now re-established and defensible in our post-Brexit world. In this respect please note:

I remain deeply sceptical as I first indicated in a Brexit debate when I proposed an amendment to require greater concentration on the issue of sovereignty in the final Brexit agreement and was overwhelmed by noise from the Liberal Democratic benches on 2 November 2019. But my point remains relevant as follows:

- (a) On taking a seat in the House of Lords, every Peer swears an Oath to uphold and protect the Sovereign's key Oaths of Accession and Coronation by which the power of governance is fully invested in The Crown and Parliament subject only to the condition that Parliament's omnipotence must never be breached by any single factor whatsoever as laid down by the Bill of Rights.
- (b) Yet that same Parliamentary omnipotence was indeed breached by the Lisbon Treaty 1 December 2009 when Parliament gave up its right to the European veto, an unarguable reduction of its omnipotence.
- (c) The Bill of Rights commands that every Peer should uphold that principle or risk losing both life and Estates if so failing although we

have dropped the Law of Attainder. Surely, however, that still leaves at risk our Estates as every Peer remains obliged to correct any breach of the Monarch's Oaths which should occur after they have been sworn into the House of Lords.

- (d) I very respectfully submit that every Peer who has taken his/her seat after the date of the Lisbon Treaty is now in breach of their Oath if having failed to do anything to correct this obligation of their own Oath and should, therefore, be precluded from active participation in key processes of the House of Lords, such as voting for new Bills and that any vote passing through the House for Royal Assent should be regarded as invalid and dismissed unless it comprises a clear majority of untainted votes in this respect. If the Clerks maintained a clear list of the continued relevance of each Peer's vote by comparison with the date of Lisbon, it would be easy to have an accurate reflection of the true vote after excluding those who Shakespeare described as "false fleeting and perjured". Well, he was talking about the Duke of Clarence and we know what happened to him.
- (e) I cannot imagine a more important Litmus test for this compliance with the Bill of Rights than a Parliamentary vote to abolish the Freedom of Speech in Parliament.
- (f) I would like particular confirmation that Her Majesty was fully informed of the implications of this six-hundred-year component of our Constitution when She gave Her Consent and Assent in the interests of making us all woke including Her Majesty herself.

In the wider context of our critical recovery of our damaged sovereignty, I can currently list a total of 17 instances where I believe there is a continuing challenge but each of these should in turn become a subject of separate debate and assessment by the House (probably they can all be cleared in one day if the House was so minded) and the course of an effective resolution is hardly likely to be assisted by the new limitations being imposed upon effective debate.

Given Her Majesty's widely acknowledged vast and detailed grasp of our Constitution, I am confident that the Clerk of the Parliaments preparing any such submission will have been comprehensive in his detailed explanation of what is involved in this change or else they would surely be at risk, now quoting Milton, of being cast into "deepest darkness there to dwell for all eternity". To which I might add my personal good wishes for your imminent retirement.

### **26 March 2021: Lord James to the Clerk of the Parliaments**

As I am writing this on Friday 2[6].03.2021, I must reasonably assume that I am writing to the new Clerk of the Parliament who will have succeeded Mr Ed Ollard who I understand retires as of the 31 March, although this will have been accelerated by the fact that the House rose for Easter last night. So forgive me for not addressing you personally but please accept my best wishes for a long and happy time in office. You will, I hope, find in your in tray my unanswered communication of 18 March of which, for convenience, I attach another copy.

I cannot overemphasise that I am extremely concerned by the issues raised in my original note as we seem to have moved to make a change to our Constitution in so far as we have, either by accident or design, created a breach of the near 1000-year-old inalienable right (since the Magna Carta) of our Parliaments (ie both Commons and Lords) to freedom of speech and I am concerned that such a

fundamental change would have required Royal Assent which I am, so far, unable to identify. Her Majesty the Queen is sworn to uphold the fundamentals which include Freedom of Speech in Parliament. That means there is no freedom of action to seek Royal Assent to remove that which she has sworn to “maintain and uphold to the best of Her powers”. It places Her in breach of the oaths, so how can this be accomplished constitutionally.

As Mr Ollard did not reply to my note, I shall look forward to receiving your own detailed and legally considered response.

Meanwhile, in sending best wishes for your new appointment perhaps I could remind you of the antique joke I first heard on joining Ford Motor Company 50 years ago:

A new man arrives in his job and knows that all his predecessors had been terminated within a few months of joining. So, he asks his immediate predecessor how do I survive this? “Easy”, says the outgoing man. You will find two envelopes in your desk which I have left telling you how to deal with the next inevitable crisis. Crisis duly comes so the new man opens the first letter left by his predecessor, it says blame it all on your predecessor and relax. So, he does and three months later he has another crisis and goes to open the second letter which is very simple: “Prepare two envelopes”.

I sincerely and respectfully hope that you will have time to answer my original letter of 18 March before you open the two envelopes.

### **31 March 2021: Clerk Assistant to Lord James**

Thank you for your letters of 26 March and of 18 March. I have consulted Ed Ollard and we have agreed that I should reply.

I completely agree, of course, that the right of freedom of speech in Parliament is a constitutional principle of the highest importance. The requirement on members to attend Valuing Everyone training does nothing to infringe upon this right: it merely requires members to attend a short course on how to treat people respectfully in the workplace. That requirement was added to the Code of Conduct by the House on 3 November 2020. All members are required to sign an undertaking to abide by that Code of Conduct when they take the Oath of Allegiance on Introduction and at the start of a Parliament. As a self-regulating Chamber, the House has always had the power to place requirements and restrictions on its own members.

More broadly, this training is one part of bicameral efforts to make the working culture of Parliament more professional, in this case by helping everyone (including Members of both Houses and all my colleagues working across Parliament) to better understand how their behaviour can affect others. Everyone needs to feel confident in addressing poor behaviour that they may witness, especially bullying and harassment which does, unfortunately, remain a real issue. Experiencing, or witnessing, such behaviour can be very distressing, and the course is designed to help everyone in Parliament be aware of that, as well as to help prevent such behaviours occurring.

I hope this offers some reassurance that the course does not represent a diminution of your rights or those of the House more generally

### **8 April 2021: Lord James to the Clerk of the Parliaments**

Thank you for your thoughtful response to my separate notes of 18 and 26 March.

I appreciate that these address the current issues as they stand arising from the recent changes to the Code of Conduct governing Members' behaviour within Parliament. Unfortunately, I am still left with a very strong concern that your analysis does not address my undiminished concern as to its wider application to the general conduct of governance within both Houses of Parliament. So, forgive me if I now attempt to repeat these consistent concerns of mine and seek to clarify the issues more precisely.

**My starting point is to confirm that the Code of Conduct within the House of Lords was amended on 3 November 2020 and that, as a result, all Members are required to sign an undertaking to abide by that Code of Conduct when they take the Oath of Allegiance on Introduction and at the start of a Parliament.**

To provide a logical sequence I add below in bold type each of the main concerns which remain issues which concern me.

The Code of Conduct is quite clearly subject to the prerequisites of Allegiance to the Crown and obedience to the rule of law at all times. The Code of Conduct must, therefore, comply with the limitations of the Crown and the extant rules of law that Govern the constitutional functions of the Crown in its governance. The primary example being the Bill of Rights 1689. Her Majesty is sworn to uphold the freedom of Speech in Parliament at Article nine of the Bill of Rights. She must do so to the utmost of Her Powers and, thus, the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

**As a self-regulating Chamber, the House has always had the power to place requirements and restrictions on its own members**

The membership of the Committee for the Code of Conduct has a prerequisite to their office confirmed by oath that the absolute duties, of owing true allegiance to the Crown and obedience to the law. They must therefore uphold this at all times, to the utmost of their powers in all that they regulate.

Thus, the self-regulation referred to is unquestionably subject to this constitutional limitation. The Committee have no power to place Her Majesty in Breach of Her Duty. Her Majesty is bound to obey the Bill of Rights and Her Oaths.

This apparent trespass upon the constitution would require prior repeal of the Bill of Rights and renunciation of the Coronation Oath and Accession Declarations and these issues represent the hard core of my continuing disquiet with this whole initiative and I believe this reflects a wider opinion within the House.

**Bullying and harassment which does, unfortunately, remain a real issue.**

Whilst bullying and harassment may be unfortunate issues, it must also be noted that Freedom of Speech requires that one has an absolute right to be offensive. This has recently been confirmed in the courts.

Where there is vehement disagreement over issues in the House the right to Freedom of Speech must surely mandate that speakers are free to say as they choose without concern for offence that may be caused. The wisdom of such is a separate issue. The Right to the Freedom of Speech dictates that speakers are constitutionally protected from any recriminatory measures.

To attempt to direct, pre-empt or head off any such use of language must surely be deemed an interference in the Constitution and an infringement of this liberty which is so fundamental to our Parliamentary governance. Further it would appear to be a proceeding of qualification being demanded outside of Parliament.

**I hope this offers some reassurance that the course does not represent a diminution of your rights or those of the House more generally**

I appreciate that you may consider me a persistent nuisance in pressing these issues but I do think that the recent changes represent an extraordinary interference with and potentially a negation of the long-standing conventions of free speech handed down for nearly 1000 years within the governance of Parliament as a whole so, I do not yet feel comfortable in taking my bat home.

I repeat my previous statement to you that I am now willing to abide by the new conditions to the Code of Conduct but I believe I am not alone in my fellow Peers in expressing similar concerns and I would greatly appreciate your further thoughts and advice as to these important issues. You will understand my grave concern is that I shall not be in danger of being in breach of my allegiance to the Crown and our constitutional law with which this apparently conflicts.

**19 April 2021: Lord James to the Clerk of the Parliaments**

I note that I have not yet received any response to my letter to you dated 26 March which means this matter remains outstanding and unresolved and I have been additionally concerned as to my present status following a conversation last week which greatly surprised me with the clerk in charge of the Register of Members' interests. As such, I set out the following additional observations:

1. I initiated a call to the office of the clerk of Members' interests to make several urgent changes to the information set against my name. There was no problem with this but he then drew my attention to the outstanding matter of my compliance to the Valuing Everyone Training Course which hardly seems relevant to his particular field of concern but I am sure he was only trying to help. The email that was presented to me indicated that the cut-off date for this had been the first of April and I am clearly now in breach of that pending a final resolution of the broader dialogue between us and the email note made clear that the Committee Code of Conduct would now take a view as to my, presumably, disqualification from retaining the Whip. My response was that I had written to yourself with a clear statement of my concern, to which the clerk said that he had already seen your own reply to me, of which I acknowledged receipt, and that was the end of the matter and nothing further would be forthcoming.
2. Having already stated that I am not sure that the Register of Members' interests has a reasonable mandate to open this discussion with myself I will now reiterate what I think my last note made clear that I do not accept your note of 31 March as a final resolution of my concerns and I am still looking forward to receiving your comments as to my specific points which are real and of deep concern to me as to issues of discharge as to my proper responsibilities as a Member of the House of Lords, with particular regard to the Oaths of Allegiance I have taken and sworn.
3. Those concerns were set out more fully in my note of 26 March and I can summarise my position briefly as this. I persist in the view that the Code of Conduct Committee acted outside its powers by seeking to curtail the

freedom of speech within Parliament in so far as it relates to the House of Lords and, presumably, the House of Commons also.

4. This process in turn has the effect of becoming a direct breach of our Oaths on joining inter alia, we undertake laws and Statutes of the land as committed through Parliament as a whole, in so far as this limitation of free speech is both an infringement of the long established power as vested in Parliament of freedom of speech since 1512 and may be seen as a breach of that fundamental principle of the Bill of Rights wherein it is stated that the entire authority of the Sovereign to govern is placed unconditionally in the hands of Parliament subject only to the condition that the one thing it can never do is to reduce its own authority or Statutory power; which the present limitation effectively does.
5. Parallel to this, I would have to regard myself as being guilty of Contempt of Statute if I should conspire or commit to a breach of The Bill of Rights, a Statute which constitutionally binds the Crown and secures the freedom of speech in Parliament. As such I would seem to be placed in breach of the duty and in breach of the duty I owe to the Crown which I have sworn to uphold and obey with the Rule of Law. I may not and will not be placed into a state of perjury and contempt for our constitutional law.

This is now the predicament in which I find myself. The last thing I will ever agree to do is to resign from active participation in the House of Lords which now would seemingly mean that there would be no alternative to the House Of Lords but to dismiss me and that must surely represent a need, in effect, for a vote by the whole House to sack me and that separately would have to receive the direct consent of the Sovereign. Respectfully, I suggest the Sovereign Lady has more on her plate at present than to be bothered with the fate of a single Lord. So, is a workable answer perhaps to take an opinion on the true application of the Law and our governance of conduct by seeking an opinion from the Privy Council as to why this is not an imposition upon the freedom of our speech.

6. On a strictly personal point I do find this whole dialogue extremely distressing. At the age of 83 I look back upon my 16 years in the House of Lords as the one sector of my life which I still have available to set against my name and record when I depart this earth. This is particularly sensitive for me as due to a war time mess up, I was wrongly classified as a mental defective (the word used was actually retard) and later forbidden to attend any school until the age of 11 so as not to interfere with the orderly conduct of any class. This was all due to a total mishap by the clinical authorities doing the evaluation and I subsequently recovered to achieve a progressive career backed by a strong educational record. Provided my tombstone can carry my name as a Peer then there is no need for me to leave any further explanation behind, but if, as would be the case if I were dismissed, I would have no alternative but to revert to my original identity without the compensating factor of my Peerage.

So, I am afraid this does not get us very far forward in resolving this matter. I am content to do this infernal training session, but only when I am given absolute assurance, that given the views above, I am not put in breach of my Oath to the Crown. So, contrary to the advice of the gentleman in the Members' interests office, I think you still owe me an answer.

### 28 April 2021: Clerk of the Parliaments to Lord James

Thank you for your letter of 28 April, and your earlier letter of 19 April. I had hoped that my earlier letter addressed the wider points you raise. It is and remains my view that in the light of the House's decision there is no impropriety or difficulty with the House requiring members to do this training.

As you are aware, this matter is now in the hands of Commissioner, to whom the cases of members who have yet to complete or book the training have been referred. That is a process that is entirely independent of me, the Administration and members. In the light of this it would be inappropriate for me to comment further on the training or the coverage of the Commissioner's investigations you have highlighted.

### 30 April 2021: Lord James to the Clerk of the Parliaments

Thank you for your note of 28 April which I do appreciate you intended to be your last word on this subject as any further discourse must be with Madam Commissioner herself. I would have been pleased to accept your note in this same spirit except that, if this is your last intended word on the subject, then your text appears to go out of its way to support the very two points which have given rise to my concern of this whole affair on the Valuing Everyone Training course and I feel bound, therefore, to set out for one perhaps final time my position in both respects. My two concerns with your note are these:

1. In your second sentence you refer to the House's decision and that there is no impropriety or difficulty in requiring members to do this training.

From the outset I have sought guidance as to where and when and in what procedural form, this "House's decision" actually took place. As a "House decision" it must surely have been recorded in Hansard and I would appreciate guidance as to the references under which I may recover this including a full list of the participants on the assumption that a full vote of the House must have been required.

2. If the inference of your second sentence is that the "House's decision" was made on its behalf with a fully authorised and correctly appointed Commission then presumably that separate decision must equally have been presented to the House for formal consent following presumably the presentation of some appropriate document which accompany most disciplinary issues brought to our attention. Again, I would request sight of or indication of reference numbers to enable me to examine any such.

The concerns I have set out here must recognise although I claim ignorance either by accident or lockdown limitation in the process by which the training requirement was established, I cannot deny that I now know enough about its intention and content to have a view as to my personal response. This I can summarise very briefly and I do wish this to be fully understood and to be made aware to all parties who might participate in any subsequent decisions re my concerns.

- (a) It is completely irrelevant as to whether I approve of the underlying principle involved here as to whether any particular form of discipline should be imposed on what may be called politically correct speech. In fact, I do not have any significant opinion either way on this subject except where it may become an established characteristic as part of any process which is required to limit the long held right of Parliament in

general, extending over more than 600 years, to sustain the principles of Freedom of Speech.

- (b) The extent noted in a) above I have noted and I have not and do not, refuse to participate in this Valuing Everyone Training. My sole precondition being that it is either certified as entirely consistent with the established principles in strictures governing Parliamentary debate under any change thereof have been correctly and formally processed (hence my concern to have access to the Hansard record of any such decision).

Once we have progressed past that point then I will cooperate with any arrangements required to fulfil the training course. But I must make the point that I understand I am well beyond the deadline of the 1 April set for this but I claim justification for this on the grounds that I have had broadly justifiable concern to ensure that in doing so I am free of any taint or accusation of having breached, in any way, the substance of my Oath of Allegiance from first entering the House in June 2012 and as subsequently renewed following every State opening. And I set out my wider concerns in c) below.

- (c) This concern as to the integrity of my Oath is further highlighted by your second paragraph of your letter of 28 April in so far as it can be taken to suggest that the whole responsibility for this initiative is occasioned by a decision from the Commissioner which, as I say above, may itself rely upon the claim that the House has given a separate formal backing for this yet, without that, it would surely imply that the Commission already possesses the power and authority to make a decision regardless of whether it breached constitutional authority of the Crown to vest formal authority to govern in Parliament subject only, in accordance with the Bill of Rights, that its absolute power is limited only by its mandatory requirement to never do anything to reduce its own authority and always remain in compliance of the constitutional limitations and duties of the Crown. In which case not even separate consent of the whole HOL could have the power to refuse such action or to endorse such initiative by the Commissioner alone. This is the very core of the undertaking each Peer binds himself to ensure on swearing his Oath on first appointment. To make this even clearer I quote you the precise wording in which our Sovereign Lady Queen Elizabeth II committed to uphold these laws in the Course of her Coronation in June 1953 and which remains unimpaired to this very day.

“I solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain ... ..according to their respective laws and customs.” “I will to my power cause Law and Justice, in Mercy, to be executed in all my judgements.” “The things which I have here before promised, I will perform and keep. So help me God.”

And at her Accession Declaration as prerequisite to Her address of Her first Parliament:-

“I will according to the true intent of the enactments which secure the .....succession to the throne uphold and maintain said enactments to the best of my power according to law”.

This is the rock on which I flounder in my attempt to comply with the implications of the decision made by myself to participate in the training course and the binding obligation I made with my Oath 15 years ago.

And that is the whole extent of my concern which I present very much as my personal position although I suspect many of the 60 dissenting Peers share similar concerns.

Otherwise thank you for your letter of 28 and I accept this should evolve into a direct dialogue with myself and the Commissioner's office and I only wish to reaffirm that I am not refusing cooperation here but only seeking reasonable comfort for the unfortunate position in which I find myself.

### **21 May 2021: Lord James to the Clerk of the Parliaments**

**First, I am happy to confirm my willingness as already conveyed by my secretary on email on 20/5/2021 that I am wholly content for our complete correspondence to be made available to the Commissioner. In so doing, however, I would like to add a word in further clarification as to the precise nature of my concern in this respect.**

As this matter continues unresolved between us, I am concerned that there is no apparent willingness to recognize on your part that we are concerned here with an interference in the freedom of speech. If this is indeed an interference then it is interference from a body outside of Parliament which would be a disobedience to the Bill of Rights and thus presumably be in contempt of Statute. Your notes suggest that you recognize the issue of duty but do not concur that it is an interference. The terms of the limitations of the Crown explicitly laid out in the Bill of Rights 1689 and affirmed in the Coronation and Accession Declaration Oaths require that it is a foremost duty and the Crown must fulfil this by upholding and maintaining the liberty to the best of the Crown's powers.

I understand that you maintain that there is no 'infringement', that it is therefore simply a matter for the responsibility of the Commissioner to assess, and nothing more to do with your office. In which case, I respectfully submit that if any member of the House of Lords feels to any degree that this might influence how they might choose to use the English language, then it would be an imposition; in which case it seems likely then that All have a duty to resist such measures and indeed overturn them. Here is the enforcement criteria text demanded by the Bill of Rights:

"And they do claim, demand and insist upon all and singular the premises as their undoubted rights and liberties, and that no declarations, judgements, doings or proceedings to the prejudice of the people in any of the said premises ought in any wise to be drawn hereafter into consequence or example;"

"that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient and indubitable rights and liberties of the people of this Kingdom, and so shall be esteemed, allowed, adjudged, deemed and taken to be; and that for all and every such instance the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said declaration, and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come."

I respectfully submit that this ensures that the office of the Clerk of Parliaments has a clear duty to observe the limitations as any other party included in this process.

## APPENDIX 2: CORRESPONDENCE WITH LORD KALMS

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### 30 April 2021: Lord Kalms to the Commissioner

I refer to your letter of 15 April.

This is the first notification I have received regarding Value Everyone Training. I would appreciate some informed information. How was this instruction approved in the Lords - I completely missed it. And under what powers has the House to ban a member on the basis they proposed - lack of training. Does this mean the house could approve other embargo, say for instance no training in nuclear technology, or not being able to read a balance sheet.

Further, I am 90 years old this year and not in a position or willing to jump to attention at a moments notice. Subject to some clarification of the issue you raise I will certainly reply and explain my views, and experience in the subject of Value Everyone Training so long as you explain to me, in reasonable detail exactly what you mean.

The only other knowledge of this issue were some comments in the media and an editorial in the Daily Telegraph under the heading Lords Lunacy, a view that perchance seems to coincide with my own. I note that I am also good company with other senior Lords.

With the verbiage on my Coat of Arms given under the hand of Her Majesty the Queen, being a life peer grants the right to sit in the Lords - exemption perhaps for serious misdemeanors, but not for obscure and contemporary issues.

Or have I misunderstood some essential fact.

The comments are by the way of preamble to your request.

It is also totally unreasonable to expect and consider a response in 1 days notice.

I trust this email is not seen as excessively aggressive, - its purpose was to express irritation and deep opposition to the implied threats. I fail to understand why you have chosen to send me the paragraph 144 of the code of conduct.

I will welcome your response clarifying my own position on the actual issue raised.

### 4 May 2021: Commissioner to Lord Kalms

Thank you for your email.

Some of the points you raise are beyond my remit to answer. My role is to enforce the Code of Conduct as agreed by the House. Having said that, let me respond to some of the points of fact you raise.

*Process for agreement the requirement to attend Valuing Everyone training*

The requirement for all members to attend the training by 1 April 2021 was agreed by the House on 3 November 2020. Lord Mance, Chair of the Conduct Committee, moved the following motion:

**Conduct** Lord Mance to move that the Report from the Select Committee *Valuing Everyone training; ICGS investigations—former MPs* be agreed to. (5th Report, HL Paper 158)

After a short debate the motion was agreed to. The relevant minutes of proceedings can be found here: <https://lordsbusiness.parliament.uk/ItemOfBusiness?itemOfBusinessId=86052&sectionId=40&businessPaperDate=2020-11-03>

The Conduct Committee's report, Valuing Everyone training; ICGS investigations—former MPs, can be found here: <https://committees.parliament.uk/publications/3194/documents/29642/default/>

For completeness, I should add that the Committee's intention to recommend making the training mandatory was also included in an earlier report published in March 2020 which can be found here: <https://committees.parliament.uk/publications/209/documents/1035/default/>

### *House's powers of sanction*

The Guide to the Code of Conduct describes the outcomes possible where the Code has been breached. These apply generally to breaches of the Code, they are not specific to the provisions relating to Valuing Everyone training. In brief, there are two categories of outcome:

- Remedial action: this is where a breach is “minor and acknowledged” and involves “setting the record straight”—in this instance I would anticipate remedial action to comprise an explanation of why the 1 April deadline had been missed and the member concerned to book a place on a forthcoming training session.
- Sanction: where remedial action is inappropriate, I am required to report to the Conduct Committee with a recommended sanction. The Guide to the Code sets out possible sanctions; some of which the Conduct Committee may impose on its own authority, some of which require the approval of the House. These are set out in paragraphs 159 and 160 of the Guide to the Code ([www.parliament.uk/hl-code](http://www.parliament.uk/hl-code)).

### *Paragraph 144 of the Code*

I include a reference to paragraph 144 to all those party in an investigation: it is a standard part of my letters launching investigations. It is in no way intended to be read as an implied threat. The Code requires my work to be in accordance with the principles of fairness and natural justice. It would be unfair not to take steps to ensure that those involved in an investigation under the Code were aware of the need for confidentiality and the potential seriousness of breaches of that confidentiality.

Finally, you refer to being required to give a considered response within a one day deadline. However, as you note, my letter explaining that you were in breach of the Code and that an investigation had to be launched was sent on 15 April. You were, therefore, provided with slightly over two weeks to reply.

I should be grateful for a substantive reply by this Friday, 7 May.

### **10 May 2021: Lord Kalms to the Commissioner**

Firstly, to clarify a date issue. Your first email was dated 15 April 2021. According to my records it was received on the 28 April hence my comments. This must have been either a delay on your transmission or a technical delay. In light of my further comments I think we should now ignore this issue as being less relevant to more serious issues I will raise.

I now refer to your letter of 4th May and its prescribed contents.

I note also that you have remorsefully demanded a substantive reply by Friday 7 May. I totally reject this objectional demand, and cannot believe you have the appropriate authority which exceeds any bounds of reasonableness.

Merely for information I would add that I only have limited access to secretarial services, and that I do not personally correspond by email. It is with regret that you are unable to address the issues that I have raised in my first letter. They are relevant and imperative.

Of course I 100% agree with a code of conduct, on abuse in whatever form it takes. My whole career was based on ethical values. If you care to cast an eye on my career I was founder of Dixons, and grew it from 1 employee in 1948 to over 35,000 when I retired at 72. During that period I was the forefront of female equal rights and pay well ahead of legalisation. Racial equality was never an issue.

My mother was born in Poland, and my grandparents were Russian refugees. I consider myself to be an authority on corporate behaviour as any research will confirm.

However racial equality is a complex and contentive issue, as to whether we have unlimited immigration, how it might be controlled, and whether we are a multi cultural or a mixed ethnic society.

These are major political issues which will take a long period to find the safe ground. This is absolutely not the right of any committee of the Lords to interfere, advise or control members considered views, under a heading of racism. It would be a major offence to interfere with parliamentary views by threats.

And finally, and I use this word intentionally, how dare your committee introduce the word training.

Pets are trained.

Students are taught.

Mature citizens have discussions, debates, to find if possible a consensus, and if not agree to differ.

I do understand you are just the messenger, so my words are to be passed on, but it is your responsibility to ensure they are done so accurately and in context, otherwise we are all wasting our time.

### **10 May 2021: the Commissioner to Lord Kalms**

Thank you for your email of 10 May.

Again, your email covers issues on which it would be inappropriate for me to comment. My role is to enforce the Code of Conduct as agreed by the House. The House agreed that all members must attend the Valuing Everyone training by 1 April. Where members missed that deadline, my role is to investigate and reach an appropriate outcome under the Code.

Where members are able to provide an explanation as to why they missed the deadline and where they take steps to rectify matters by attending the training, I am able to conclude this process by what the Code terms “remedial action”. In other

cases I must report the breach to the Conduct Committee with a recommendation for sanction.

My original letter was sent to you on 15 April at this email address. While I appreciate that technical issues can and do occur and such occurrences may have prevented you from receiving it on 15 April, you did receive my follow-up email of 28 April. You have therefore had my letter for at least a week and half but have yet to provide me with a substantive response.

The report of the Conduct Committee which made the Valuing Everyone training mandatory requires me to publish a single report covering all those where remedial action is the appropriate outcome. I anticipate finalising that report on Wednesday, 12 May. Should you provide me with an explanation of why you were not able to meet the deadline and how you will now rectify matters, I will be able to include you in that report. Without such a response before I finalise my report, I will need to report your case to the Conduct Committee for resolution.

For clarity, I should note that I have no role within the Conduct Committee. Once the House has agreed recommendations from the Committee, my role is to enforce them. I am not involved in the Committee reaching its recommendations.

**17 May 2021: Lord Kalms to the Commissioner**

As your role is only to enforce - not to respond to facts or measured argument then there is clearly no purpose in continuing our communications.

### **APPENDIX 3: EMAILS CONCERNING BARONESS MONE'S ATTEMPTS TO BOOK A TRAINING SESSION**

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#### **17 March 2021 at 14:07: The Earl of Courtown to Baroness Mone**

Hope you are well. I thought it best to draw this to your attention, it has become mandatory for all peers to take part in “Valuing Everyone” training. This was part of the campaign to stop bullying and harassment in Parliament, an issue that became apparent a couple of years ago.

Anyway we all have to do it and although my records might be incorrect your name comes up as not having done the online training. As this is something we have to do before the end of this month and is part of the code of conduct I think it would be good for you to book a place on the online course. Let me know if you'd like me to send you a link.

#### **17 March 2021 at 14:13: Baroness Mone to the Earl of Courtown**

I hope you are well.

I am suffering with COVID at the moment, it's not a nice experience.

I have done the health and safety on line but no one has asked me to do “Valuing Everyone” training.

Please send me the link and I will book a slot.

#### **17 March 2021 at 14:33: Government Whips' Office to Baroness Mone**

I understand you've spoken to Patrick about the Valuing Everyone Training. To sign up, please email [the Lords ICGS Implementation Lead] at [email address]. He will give you the available dates and make the booking for you.

#### **17 March 2021 at 14:37: Baroness Mone to Lords ICGS Implementation Lead**

Can you please sent me up for the below training.

#### **17 March 2021 at 16:37: Lords ICGS Implementation Lead to Baroness Mone**

Thanks for your message. We have sessions at the following dates and times this month:

19 March, 9-11am

25 March, 9-11am

25 March, 2-4pm

29 March, 9-11am

31 March, 1-3pm

If one of these is convenient, I can reserve a place for you. As you may know, the training is delivered online via Microsoft Teams, and we normally send the joining instructions the day before. Please do let me know if you have any questions about this.

**23 April 2021 at 12:54: Government Whips Office to Lords ICGS Implementation Lead**

Baroness Mone has asked if there are any training sessions on 4th or 5th May that she can join?

**23 April 2021 at 14:00: Lords ICGS Implementation Lead to Government Whips Office**

I'm afraid not, the options we currently have in May are as follows:

11 May, 9-11am

26 May, 1-3pm

Might one of these be convenient for Lady Mone?

**23 April 2021 at 14:17: Government Whips Office to Lords ICGS Implementation Lead**

Thank you. I'll go back to her and ask!

**23 April 2021 at 14:34: Government Whips Office to Lords ICGS Implementation Lead**

She can make 11 May, 9-11am. Is it possible to send the joining instructions to [non-parliamentary email address]? She has difficulties accessing her parliament emails remotely.

**23 April 2021 at 16:56: Lords ICGS Implementation Lead to Government Whips Office**

That's all booked in. I can confirm with Lady Mone directly if that's ok? Don't want to cut across or confuse any lines of communication if you'd rather confirm with her. We've made a note of the email address, and we normally send the joining details the day before.

**23 April 2021 at 17:09: Government Whips Office to Lords ICGS Implementation Lead**

That would be great, thank you. Are you ok to confirm with her on that email address I gave you?

**23 April 2021 at 17:24: Lords ICGS Implementation Lead to Government Whips Office**

Sure, leave it with me.

**23 April 2021 at 17:31: Lords ICGS Implementation Lead to Baroness Mone**

Following a message from [the Government Whips Office], I am writing to confirm that you are booked to complete Valuing Everyone training on 11 May, at 9am. As you may know, the training takes the form of an online workshop delivered via Microsoft Teams, and I've made a note to send the joining details to you at this email address. We usually send these the day before the training session. If you have any queries about using Microsoft Teams or would like to try a quick test call in advance, please do let me know.

The training is designed to be interactive, and will involve some slides and video, as well as discussion (e.g. on the boundaries between acceptable and unacceptable

behaviour, or how to support or intervene if you are aware of unacceptable behaviour taking place). There is no test or roleplay exercise or similar.

Please do let me know if you have any questions.

**10 May 2021 at 16:49: Lords ICGS Implementation Lead to Baroness Mone**

Following a message from [the Government Whips Office], this is to confirm that you are booked onto the training session next Wednesday, 19 May, 2-4pm. We will send the joining details the day before, but please do let me know if you have any questions in the meantime.



## Annex B: Lord James of Blackheath's appeal documents

### Letter from Lord James to Clerk of the Conduct Committee, dated 9 June 2021

Thank you for your email of 9 June 2021 concerning the strictures of the Appeal process and the potential issues I should expect to address.

My actual Formal Appeal presentation will be despatched under separate cover by email to you tomorrow as originally intended.

Having now prepared the Appeal I feel it may be necessary for me to provide an extra word of explanation to you in order to clarify my position in this vexatious matter which I wish to resolve as swiftly as possible.

The principal thrust of my Appeal is that I have never refused to undertake the Valuing Everyone Training course but I have expressed severe reservations as to the compatibility of this exercise with my serious reservation as to whether it may put myself in breach of the Oath I took on taking my seat on 22 June 2006. This issue then becomes more complex by the fact that the Standards Commissioner of the Lords, Ms L Scott-Moncrieffe had already adjudged in her letter to the Committee that I am not sincere in my repeated assertions that I will be content to take the Course once I am given absolute assurance that there is no such hazard of perjury on my part. Thus, the whole structure of my Appeal is as follows:

1. My confirmation that I will not be prepared to take the course unless it can be conclusively proven to me that it will not prejudice my Loyal Oath as sworn. This section covers sections 1, ii, vi in my Appeal and my argument rests principally on this; I never received any adequate comfort to overcome my anxiety. Section 2 follows this and concentrates almost exclusively on the detailed nature of my anxiety and explains how this arises in the context of my worry as to constitutional compliance as to this initiative by the Standards Commissioner as to Accession, Declaration and Coronation Oaths.
2. My Appeal is so structured as to deal with both these issues separately but should be read as one single and integrated explanation as to first, my basic objection and secondly, how this arises within my understanding of the laws which govern the House of Lords.

Accordingly, I would hope that your Committee, having read these notes will come to appreciate that I have not hidden behind a sequence of delaying refusals to take the Course but that I remain willing to do so immediately I am given satisfaction as to the critical points I raise in my Appeal listed as Section 2, i through vii.

Consequently, I would hope that the Appeal process review will acknowledge the integrity of my concerns as to the legitimacy of this process having no impact on the Royal Oaths and, in so doing, acknowledge that my willingness to undertake the course will then have been unreservedly established. If so, then I hope that the Committee will approve a few days of further grace in which I can take the course, which I will immediately arrange to do, if so cleared by this Appeal. The Committee Chairman's speculation that my failure to undertake the course so far should be regarded as an outright refusal is and never has been true. I am

as anxious as any of you to bring about a satisfactory completion to this whole process and I hope this letter will help to facilitate this.

### **Letter from Lord James to Clerk of the Conduct Committee, dated 10 June 2021**

I am in receipt of the note from the Standards Commissioner for the House of Lords dated 28 May 2021 concerning my alleged misconduct in failing to attend the above course. I have duly noted the Commissioner's assessment of this matter and her proposed course of action and wish to avail myself of the opportunity to enter a Formal Appeal against this process and proposed action by the deadline of 5pm Friday 11 June as advised in the Commissioner's note. Of course, I will expect to receive a formal acknowledgement either from yourself or the Commissioner to the effect that my Appeal has been received and acknowledged within the aforesaid time limit.

In consequence of this I am setting out in the separate attached sheets which should be considered as an integral part of this Appeal and represents the grounds on which I wish the Conduct Committee to review my case.

I hope that the Committee will allow this whole Appeal document to be reviewed as its separate halves each have a specific function. Section 1 deals wholly with the reasons for my reluctance to undertake the training whilst Section 2 deals almost exclusively with the issues for which I have been seeking comfort to enable me to undertake the course. The Appeal consequently comprises two separate but wholly interdependent sections.

A signed copy of the original will have been sent separately.

### **Lord James's appeal submission**

#### *1. Background*

I first became aware of the Valuing Everyone Training initiative on 26 March 2021. I received this from my personal Government Whip Lord Smith of Hindhead along with his recommendation that I should attend. From the outset, my reaction was that I would be willing to cooperate but only on the strict condition that it could be shown to me conclusively that no such participation in this training course could place me in jeopardy of perjury by being in default of my Loyal Oath sworn on first taking my seat in the House of Lords in June 2006.

I then immediately initiated direct contact with the then Clerk of the Parliaments, Mr Ed Ollard, and his immediate successor, Mr Simon Burton, due to take up his new appointment on 01 April. Since then, I have had an extended conversation with the Clerk on the precise nature of my objection and possible infringement of the critical Oath and this led to an extended but very slow correspondence between us culminating in my final submission to Mr Simon Burton, the Clerk of the Parliaments on 21 May. Despite this lengthy correspondence between us, Mr Burton at no time seemed willing to address the fundamental principles of my argument, either to agree or deny them which had the effect of leaving me effectively in limbo as far as taking the training course was concerned so I continued to miss all relevant deadlines demanded by your Committee for me to take the course as my concerns and anxieties remain unresolved.

It remains the fact that I have never received any direct address to my core request concerning the constitutional legitimacy of this training process whilst I have continued to reiterate on numerous occasions that I am not refusing to take this

training course but I remain completely unable to do so until I am given, from an authoritative and legitimate source, an appropriate and definitive answer to my one deeply concerning query so as not to place myself in breach of extant constitutional law Article 9 of the Bill of Rights.

As such I strongly refute, and object to, any suggestion that I am guilty of an outright refusal to take the course on the primary grounds that I have a legitimate question on which I would expect any Member of the House of Lords to receive satisfaction on the propriety of undertaking any action which might impinge upon the integrity of his Oath. I strongly object to what appears to be the Commissioner's outright assertion that I have refused to undertake the Course as I have from the outset maintained a requirement for a specific and authoritative response to my key concern whilst constantly reiterating my willingness to cooperate on receipt of this but answer there has been none.

As to the Commissioner's offensive assumption which seems to suggest that my failures to accept the training course so far probably represent a permanent determination not to participate even when I have satisfaction of my original query, I regard this as unfounded and without substance by reference to the lengthy and unanswered correspondence in which I have detailed my query, I have oft reiterated my willingness to participate if my anxiety can be answered and established to show that the proposed training course does not curtail free speech in the House without violating the new Code of Conduct.

As such I maintain that I am not guilty of my alleged disobedience but that I have taken all reasonable steps to resolve my core query and these have gone unanswered while the Committee has instead chosen to regard my question as prima facie evidence of an outright refusal to cooperate which I strongly deny. Accordingly, I am once again going to set out in Section 2 below the detailed substance of my original and still unanswered query as to the legitimacy of this request and the parallel legitimacy or otherwise of my concern as to its impact on my Loyal Oath.

## *2. My core concern regarding Valuing Everyone Training:*

i) On first entering the House of Lords I felt it appropriate to inform myself as to the precise nature of the Oath which I would be required to undertake, its constitutional significance within the overall structure of Parliament and particularly, the specific responsibilities and obligations it would place upon an individual concerning the enhanced level of responsibility it would impose upon an individual within the structure of Parliament as a whole and particularly its responsibilities vis a vis Sovereignty, and the honour and obligation owed to Our Sovereign Lady. Until joining the House of Lords the only Oaths I had ever been required to take were as a Boy Scout at the age of 11 and the Official Secrets Act relating to certain career involvements in which I had been previously engaged. So, I was in uncharted territory with my Royal Oath except for a very solid foundation of constitutional history classes from my private school education.

ii) The understanding I formed of the Royal Oath for a Member of the Lords I venture to summarise as follows:

- (a) A Member of the House of Lords is required to swear to undertake to maintain their Sovereign Lord in a specific and full discharge of the obligation to which they first commit on two occasions notably:
  - (i) Proclamation and Accession Declaration Oaths

- (ii) Their precise reaffirmation of their Oath as the core and most wholly and binding commitment when this is repeated as an integral and essential part of their Coronation Oath. All of which Her Majesty Queen Elizabeth II has performed reign long.
- (b) The issue of these Royal Oaths, however, have to be understood as the complex and precise structures placed upon the Monarch in the course of accepting the Royal Succession and which derive directly as formal conditions for descendance set out first of all in the Bill of Rights 1688 and then reiterated in the Act of Settlement 1701. In the current context I am presenting, these requirements cover two very specific and binding obligations upon the Sovereign:
- (i) The Sovereign will place the entire authority for Government of the kingdom in the hands of a freely elected Parliament to be backed and supported by a separate Council of the Peers and Spiritual Officers of the Protestant faith subject only to the strict and unbreakable condition that this power of governance shall be omnipotent in all respects save one: The exception is that Parliament may never do anything to reduce the omnipotence thus vested in it by the full Sovereign power of the Monarch. The Monarchy being of a constitutional limited nature bound by the Oaths and the rules of law so appertaining.
  - (ii) The Act of Settlement was developed as a reflection of the conditions which prevailed as a direct consequence of the unsettled and disturbed structures of society and prevailing economic problems due to the long years of Civil unrest starting with the Civil War and the religious difficulties arising from the establishment of the Church of England as a replacement to the Church of Rome.

Consequently the Act of Settlement which confirms the Protestant monarchy also provided for the continuity of all necessary laws and Statutes required for the orderly conduct of the newly formed Constitution and this was dealt with by a demand on the Monarch that all extant laws and Statutes still current at the time of the Bill of Rights must be maintained in perpetuity along with all new laws such as the new Government might later initiate and that these would become the responsibility of the Monarch reign long and pass on as a similar obligation for maintenance by the Monarch's heirs and successors.

And these are the key conditions reflected initially in both the Accession Declaration Oath and the Scottish Claim of Right and most directly in what may be regarded as the key component of the Coronation Oath. Thus, these are the binding strictures of the Crown which were accepted and have been maintained by our Sovereign Lady Queen Elizabeth II since 1952.

- (iii) It may be argued that the binding oath to maintain the omnipotence of Parliament has been prejudiced during the current reign of Her Majesty Queen Elizabeth II due to the course of the United Kingdom's membership of the Common Market (EU) under which the powers of the UK Government were severely curtailed

by conditions requiring adherence to the collective will of the EU. This breach, however, was considered as having been overcome by the EU having allowed the UK a right of Veto in such critical issues although this was then curtailed and voided later by the Treaty of Lisbon 2009. As a result, the UK's Parliamentary compliance may be regarded as having been in breach of Her Majesty's Oath until this was all voided and corrected by the passage of the Bill by which Britain ceased to be a member of the EU in 2020.

(iv) The Bill of Rights specifically states that any breach of the Royal Oaths must be amended forthwith and any failure so to do will result in those who have sworn to uphold it forfeiting their lives and estates. These strictures have been more recently set aside since the abolition of the Bill of Attainder but the obligation to correct any such transgressions remains and there must be constant vigilance to ensure no further transgressions occur.

(v) The new transgression which I respectfully submit has occurred as a result of the Valuing Everyone Training Course is this:

Amongst the Bills and Statutes undertaken to be maintained in perpetuity by Her Majesty's Coronation Oath is the Strobe Act 1512 which has effectively been a guarantor of Free Speech for nearly 600 years and confirmed by Article Nine for Freedom of speech in Parliament by the Bill of Rights. The Critical Question is whether the principles and practices in the Valuing Everyone Training Course effectively curtail, eliminate, or overrule those principles of free speech as have been effectively maintained by Her Majesty's Oath in perpetuity. In which case there will have been a tangible breach of the Royal Oaths by which Members of the House of Lords have undertaken to maintain Her Majesty in Her Coronation Oath.

(vi) In paragraph v) as set out in my correspondence with the Clerk of the Parliaments, I have encapsulated my core concern to the course during an eight-week period but my concerns have gone completely unanswered, which is why I have not been able to fulfil the Committee's demands upon me as I still have the unresolved anxiety as to its impact upon my original Loyal Oath and the potential for being in breach of our constitutional law. And that my lords of the Committee represents the entire grounds of my Appeal against the Commissioner's judgement. Prove incontrovertibly in detail by constitutional authority and not by simple assurance that I am wrong and I will proceed immediately to arrange to do your course although you may need to add some days to the period available for this to take into account how long this is taking to resolve.

(vii) Finally, and, I hope, understandably, in the context of this dialogue I would appreciate clear explanation as to the authority, both as to its extent, source and formalisation of the powers that have been vested in the Commissioner's ability to propose mandatory law change, which, if I am right in my comments above, may almost be seen to exceed those of the Monarch herself. Surely this must raise issues as to legitimacy and authority if this is to be taken as

sufficient for the Committee to reverse a Constitutional obligation from the Act of Settlement of 1701 which would be an authority which would not seemingly be available to the authority of the Sovereign given the firm commitment in the Coronation Oath to maintain the laws and Statutes as they stand without amendment. Surely the Committee and its members cannot claim a higher power than the Sovereign as this might imply. This point is given added emphasis by the apparent lack of any formal process for Royal Assent to the Committee's initiative plus the uncertainty which relates to the quorate status when it was passed for approval by a sitting session of the House of Lords itself.

And that my Lords of the Committee is the basis of my Appeal and I would appreciate acknowledgement of receipt of same.