

THE HOUSE OF COMMONS COMMISSION

Response to the Eighth Report of the Committee on Standards in Public Life: *Standards of Conduct in the House of Commons*

Report presented to The House of Commons by Mr Speaker

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Response to the Eighth Report of the Committee on Standards in Public Life: *Standards of Conduct in the House of Commons*

Introduction

1. We are grateful to the Committee on Standards in Public Life for the care and thoroughness with which they have considered regulation of standards of conduct in the House of Commons, and we welcome their constructive and helpful report. We endorse the Committee's belief that a system of regulation should be able to meet the twin objectives of delivering public confidence in the House of Commons and of carrying the confidence of the House itself.¹ We also note the view of the Chair of the Committee that, since 1995, "real progress has been made in establishing and enforcing high standards of conduct".²

2. Although we naturally take an interest in standards of conduct in the House, our formal role is limited to nominating a candidate for appointment by the House as Parliamentary Commissioner for Standards, employing the Commissioner, and providing resources for the Commissioner's work.

3. It will be for the House itself to decide on most of the Committee's recommendations,³ with the advice of the Committee on Standards and Privileges, the Parliamentary Commissioner for Standards, and ourselves. We of course stand ready to implement the House's decision on any matter within our responsibilities.

4. Before finalising this response, we discussed the issues with Sir George Young, the Chairman of the Committee on Standards and Privileges, and Sir Philip Mawer, the Parliamentary Commissioner for Standards.

The Committee's recommendations

Recommendation 20 (page 53): *The post of Parliamentary Commissioner for Standards should be clearly defined as an office-holder, appointed and paid for, but not employed, by the House.*

5. The Committee's recommendation is based upon its view that the independence of the Commissioner could be called into question if he or she were in the direct employ of the House (in practice, of the House of Commons Commission).⁴

¹Paragraph 2.44, page 16.

²Letter from Sir Nigel Wicks to the Prime Minister, page iii.

³Recommendation 6 relating to the Ministerial Code is a matter for the Prime Minister.

⁴Paragraph 8.13, page 53.

6. The Committee proposes that this recommendation should be implemented by Standing Order.⁵ On the basis of firm advice, we believe that it could not be implemented effectively either by Standing Order or by Resolution of the House, and that an office in the terms which the Committee has in mind could be created only by statute. Implementation would thus have to await an opportunity for primary legislation.

7. However, we believe that the Committee's aim can be achieved in another way. First, the appointment of the Commissioner for a single non-renewable term would meet much of the concern about independence. This could be buttressed by a statement in the letter of appointment that early termination of appointment may only follow on a Resolution of the House.⁶ The post would then attract the protection of employment law, but the Commission would not have the normal rights of an employer to terminate a contract of employment simply by giving notice.

Recommendation 21 (page 54):

(a) The Commissioner should in future be appointed for a non-renewable fixed term.

(b) The House should decide on a term of between five and seven years.

8. We agree with the Committee's reasoning and accept this recommendation. Our preference would be for an appointment of five years' duration.

9. The Committee stresses that it is making recommendations for the future, not commenting upon the terms on which the present Commissioner was appointed "although we anticipate that the House of Commons Commission and the present Commissioner may wish to reflect upon this recommendation".⁷

10. Sir Philip Mawer was appointed by the House on 13 February 2002, initially for a three-year term, and took up his appointment at the beginning of the following month. We have been most impressed with the way he has carried out his duties, and with the contribution he has already made to the authority and effectiveness of the system. In our view, when in response to Recommendation 21(b) the House decides upon a term for future appointments, Sir Philip's appointment should run for that period, beginning from the date of the House's decision.

Recommendation 22 (page 56):

(a) The House should continue to appoint the Parliamentary Commissioner for Standards on a recommendation from the House of Commons Commission.

(b) The House of Commons Commission should, as best practice, conform with the Code of Practice of the Commissioner for Public Appointments at all stages of the selection process.

(c) The Chairman of the Committee on Standards and Privileges should be a member of the selection panel and attend any relevant meetings of the Commission when the appointment of the Commissioner is discussed.

⁵Paragraph 8.66, page 62.

⁶If necessary, S.O.No.150(3) could be amended in the same sense.

⁷Paragraph 8.19, page 54.

11. We accept *Recommendation 22(a)*.

12. We agree with *Recommendation 22(b)*. The selection process which resulted in the nomination of Sir Philip Mawer was exacting. Following advertisement in the national press and a search by recruitment consultants, a total of 63 candidates was reduced through sifts and interviews to a short list of six. An interview Board chaired by the then Clerk Assistant, and consisting of a Member of the Commission (the Rt Hon Eric Forth MP), the House's Director of Finance and Administration, and two external members (The Lord Newton of Braintree OBE and Sir Gordon Downey KCB, a former Parliamentary Commissioner for Standards) interviewed those candidates and recommended three for final interview by the Commission.

13. We were keen to ensure that the selection process followed best practice. An independent element was provided by Lord Newton and Sir Gordon Downey. Ms Sheila Drew Smith, an assessor recommended by the Commission for Public Appointments, attended the later stages of the sifting process, the meetings of the interview Board, and the final interviews by the Commission. She concluded that, on the basis of what she had seen, the process "seemed to have been as robust as it could have been made" and that "everyone associated with the process was determined that it should be handled rigorously and that the Nolan principles should be brought to bear at all stages".

14. The Committee on Standards in Public Life notes that "the appointment process did not fully follow the Code of Practice of the Commissioner for Public Appointments to the letter, in that the independent assessor was not involved in the initial sift of applications, although she took part in subsequent proceedings".⁸

15. We were keen to involve an independent assessor from the outset of the process, and the then Clerk of the House wrote on 6 November to Sir Nigel Wicks, the Chair of the Committee on Standards in Public Life, asking if he himself would act as that assessor.

16. Sir Nigel replied on 19 November saying that as it was a "standing principle of the Committee not to involve itself in individual cases or appointments" he would have to decline. However, he emphasised "the Committee's whole-hearted support for the Commission's wish to involve independent advice in the appointment to this important post".

17. A further delay resulted from the unavailability of assessors initially suggested by the Commission for Public Appointments; thus the independent assessor was not part of the process until after the first "longlisting" meeting.

18. We have already implemented *Recommendation 22 (c)*. Sir George Young, the Chairman of the Committee on Standards and Privileges, was a full member of the panel for the final interviews conducted by the Commission. It is our intention that this should be standard practice from now on, and that the Chairman of that Committee should attend the Commission for any discussion relating to the nomination and appointment of the Commissioner, as well as being involved in framing the job-and person specification and in the preliminary interviews.

⁸Paragraph 8.23, page 55.

Recommendation 24 (page 58): *The process for setting the resources for the Commissioner's office should be transparent; the Commissioner and the Chairman of the Committee on Standards and Privileges should be involved in arriving at the budget.*

19. A transparent process was in place before the publication of the Committee's report. In December 2001 we instructed the House's Internal Review Service to carry out a new assessment of the workload and the resources required. At the same time we undertook to provide whatever might be judged to be necessary.⁹

20. This assessment was carried out with the full involvement of the incoming Commissioner. In May 2002 we discussed the Review Manager's report with the Chairman of the Committee on Standards and Privileges and the Commissioner for Standards. The Chairman (and, shortly afterwards, his Committee) and the Commissioner expressed themselves content with the report, and we approved its recommendations. We then sent a copy of the report to the Committee on Standards in Public Life, and published it on the Internet.¹⁰

21. This transparent process closely involved the Commissioner and the Chairman of the Committee. We regard *Recommendation 24* as being fully implemented.

22. We remain committed to providing whatever resources are judged to be required. The Internal Review Service will carry out a verification review in the course of this year, and resources will be reviewed regularly as part of the House's budgetary process. We think it would be useful if, as suggested by the Committee,¹¹ details of the budget were to appear in the Commissioner's annual report.

⁹*Official Report*, 18 December 2001, col. 213W.

¹⁰<http://www.publications.parliament.uk/pa/cm200102/cmselect/cmcomm/review.htm>

¹¹Paragraph 8.58, page 60.

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