

House of Commons

Committee on
Standards and Privileges

**STANDARDS OF CONDUCT:
LETTERS FROM THE
COMMITTEE ON
STANDARDS IN
PUBLIC LIFE**

First Special Report of Session 2002–03

*Report and Appendices, together with
Proceedings of the Committee*

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THE COMMITTEE ON STANDARDS AND PRIVILEGES

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

Current Membership

Rt Hon Sir George Young Bt MP (*Conservative, North West Hampshire*) (Chairman)
 Mr Russell Brown MP (*Labour, Dumfries*)
 Ross Cranston QC MP (*Labour, Dudley North*)
 Mr Andrew Dismore MP (*Labour, Hendon*)
 Mr Michael Jabez Foster DL MP (*Labour, Hastings and Rye*)
 Mr David Heath CBE MP (*Liberal Democrat, Somerton and Frome*)
 Mr Tom Levitt MP (*Labour, High Peak*)
 Rt Hon Andrew Mackay MP (*Conservative, Bracknell*)
 Mr Kevin McNamara MP (*Labour, Hull North*)
 Richard Ottaway MP (*Conservative, Croydon South*)
 Rt Hon Alan Williams MP (*Labour, Swansea West*)

The following were also members of the Committee during the Parliament:

Tony Baldry MP (*Conservative, Banbury*) (discharged 5 November 2001)
 Mr David Chidgey MP (*Liberal Democrat, Eastleigh*) (discharged 5 November 2001)
 Peter Bottomley MP (*Conservative, Worthing West*) (discharged 4 March 2002)

Powers

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

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: www.parliament.uk/parliamentary_committees/standards_and_privileges.cfm. A list of Reports of the Committee in the present Parliament is at the back of this volume.

Contacts

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FIRST SPECIAL REPORT

The Committee on Standards and Privileges has agreed to the following Special Report:

STANDARDS OF CONDUCT: LETTERS FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

1. In our Second Report,¹ published on 11 February, we set out our views on the Eighth Report of the Committee on Standards in Public Life, on standards of conduct in the House of Commons.² On the same day, the House of Commons Commission published its response to the recommendations primarily addressed to it.³

2. On 20 February, Sir Nigel Wicks, Chairman of the Committee on Standards in Public Life, wrote to the Speaker giving that Committee's views on the Commission's response, and to our Chairman, giving its views on our Second Report. The text of the letter to our Chairman is reproduced at Appendix 1 and, with the agreement of the Speaker and for the convenience of the House, the text of the letter to him is reproduced at Appendix 2.

3. We are grateful to the Committee on Standards in Public Life for its responses, which the House will wish to take into account when it debates these matters in the near future, and for its continuing constructive approach. We welcome in particular that Committee's observation that the proposals we have put forward "will be a significant improvement on the current arrangements". To the extent that the detailed comments relate to matters within our own purview, we shall give them sympathetic consideration.

¹ Second Report, Session 2002–03 (HC 403).

² Cm 5663.

³ HC 422 (2002–03). This commented specifically on Recommendations 20, 21, 22 and 24.

APPENDIX 1

**Letter to the Chairman of the Committee on Standards and Privileges
from Sir Nigel Wicks GCB, CVO, CBE,
Chairman of the Committee on Standards in Public Life**

My Committee has now considered the response of the House of Commons Committee on Standards and Privileges, published 11 February, to our Eighth Report, *Standards of Conduct in the House of Commons*. It may be helpful for the House of Commons, before it debates your report, to have the view of the Committee.

We are glad that you found our report constructive and helpful and that you have endorsed the greater part of our recommendations. We note that you share our view of the five characteristics of an effective system of regulation:

- an independent or an external element, or both;
- clarity and transparency;
- the right cultural outlook;
- fairness to those being regulated; and
- the responsibility of leadership.

We are pleased that you have welcomed our emphasis on the pivotal role of the Committee on Standards and Privileges in establishing arrangements for standards and on the need for an effective partnership between the Committee and the Parliamentary Commissioner for Standards. We are pleased too that your Committee, in those areas where you differ, has suggested alternative means of reaching the same goal. So your proposals go a long way in the direction of the Recommendations in our report and we believe will be a significant improvement on the current arrangements.

We do, however, have a number of comments on areas where your response differs from our recommendations.

You have not accepted our Recommendation 12 for an Investigatory Panel because, if we understand your position correctly, of concern that it would undermine the position of the Parliamentary Commissioner. This was certainly not our view. In recommending the Panel we were focussing particularly on the difficulties that we saw for the Committee as an evidence-taking body. We also wanted the procedures to meet the two tests of fairness recommended in 1999 by the Joint Committee on Parliamentary Privilege (the Nicholls Committee) not met by the present arrangements, namely the ability to call and cross examine witnesses. You prefer a different approach—a panel comprising the Commissioner, assisted by a legally qualified assessor and a senior Member of the House. Such an approach would provide a further instrument to help the Commissioner, and indirectly therefore your Committee, to ascertain the facts of a case. It would also, we believe, meet the two tests of fairness and we welcome that. No doubt if the House of Commons were to approve such an approach, your Committee would be ready to review its effectiveness in due course in the light of experience. We note that you see difficulties in practice with giving the Commissioner powers to call for witnesses and papers. We believe that the panel you propose would be more effective if the Commissioner did have these powers. It would improve, too, the public perception.

It would, of course, be for the Commissioner to decide the precise arrangements for the panel that you propose. But we can see some advantage in the Commissioner establishing at an early stage whether there are significant contested issues of fact and whether proof of the complaint would be likely to lead to a serious penalty. The panel procedure would then be invoked before the Commissioner has reached a preliminary view of the facts. This would avoid the panel being regarded as an appeal against the Commissioner's "first" view on the case. A more detailed point on the procedure that you envisage is that it is not altogether clear from paragraph 38 of your Committee's report precisely when a Member complained against would be in a position to make known to the Commissioner any dispute he or she has with the facts.

We recommended, in Recommendation 12(e)(ii) that the Member against whom an allegation has been made should have the right to receive reasonable financial assistance for legal advice and

representation. We note that you intend that a Member would be entitled to legal advice and help as at present. We take it from this that you have not accepted our recommendation.

In Recommendation 12(f), we said that the Investigatory Panel should be able to appoint Counsel. There is no mention of this in your proposed alternative. We doubt that the legal assessor who is part of the panel can carry out the function both of panel member and of Counsel for the panel. Nor would we consider this an appropriate role for the legal adviser to the Committee, who would then have a conflict when he or she came to advise the Committee on procedural matters. We consider, therefore, that the panel should be able to appoint *ad hoc* legal representation to present the case and examine witnesses in cases where the Commissioner considers it necessary, although we do not anticipate that this will be needed in every case.

We are sorry that you have rejected our Recommendation 13(a) that the Committee should take evidence in public. Whatever the House decides on this point, we would expect the Committee to continue its practice of publishing a verbatim transcript of evidential proceedings and that any panel would do so too.

We very much hope the House of Commons will find time for an early debate on your report.

I am sending a copy of this letter to Mr Speaker and placing a copy on our website, in accordance with our usual practice.

20 February 2003

APPENDIX 2

Letter to The Speaker, Chairman of the House of Commons Commission, from Sir Nigel Wicks GCB, CVO, CBE, Chairman of the Committee on Standards in Public Life

The Committee recently considered the response of the House of Commons Commission to our Eighth Report, *Standards of Conduct in the House of Commons*, which you published on 11 February. It may be helpful for the House of Commons, before it debates your report, to have the view of the Committee.

We are pleased that the Commission has recommended that the House of Commons accept those recommendations which relate to the Commission's formal role with regard to the nomination of and provision of resources for the Parliamentary Commissioner for Standards.

On the matter of the Commissioner's status, my Committee recommended that the post should be clearly defined as an office-holder, appointed and paid for, but not employed, by the House. The Commission in its response says that, "*On the basis of firm advice ... it [the recommendation] could not be implemented effectively either by Standing Order or by Resolution of the House, and ... an office in the terms which the Committee has in mind could be created only by statute.*" If this is indeed the case, the Committee agrees that implementation will depend on providing a suitable opportunity for primary legislation. We hope that such an opportunity will be found soon.

We note the Commission's view that a statement in the Commissioner's letter of appointment that early termination of appointment may only follow on Resolution of the House would mean that the post would continue to attract the protection of employment law. But we do not see such a statement as an effective substitute for defining the Commissioner as an office-holder.

We very much hope the House of Commons will find time for an early debate on your report.

I am sending a copy of this letter to the Rt Hon Sir George Young MP and placing a copy on our website, in accordance with our usual practice.

20 February 2003

PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

TUESDAY 11 MARCH 2003

Members present:

Sir George Young, in the Chair

Mr Russell Brown	Mr Tom Levitt
Ross Cranston	Mr Andrew Mackay
Mr Andrew Dismore	Mr Kevin McNamara
Mr Michael Jabez Foster	Richard Ottaway
Mr David Heath	

* * *

Draft Special Report [Standards of Conduct: Letters from the Committee on Standards in Public Life], proposed by the Chairman, brought up and read.

Ordered, That the draft Special Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 3 read and agreed to.

Resolved, That the Report be the First Special Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Several Papers were ordered to be appended to the Report.

Ordered, That the Appendices to the Report be reported to the House.—(*The Chairman.*)

* * *

[Adjourned till Tuesday 25 March at half-past Nine o'clock.]

LIST OF REPORTS FROM THE COMMITTEE IN THE PRESENT PARLIAMENT

SESSION 2001–02

First Report: Complaint against Mr Geoffrey Robinson: Supplementary Report (HC 297).
Published 24 October 2001.

Second Report: Complaint against Mr Roy Beggs (HC 319).
Published 31 October 2001.

Third Report: Complaint against Mr John Maxton (HC 320).
Published 31 October 2001.

Fourth Report: Restrictions on the Initiation of Parliamentary Proceedings: A Consultation Paper (HC 478).
Published 19 December 2001.

Fifth Report: Complaints against Mr Keith Vaz (HC 605–I–II)
Volumes I and II published 8 February 2002.

Sixth Report: Registration of Interests by Members who have not taken their seat (HC 624)
Published 13 February 2002.

Seventh Report: Complaints against Mr Nigel Griffiths (HC 625)
Published 13 February 2002.

Eighth Report: Complaints against Mr Archy Kirkwood (HC 755)
Published 24 April 2002.

Ninth Report: A new Code of Conduct and Guide to the Rules (HC 763)
Published 30 April 2002.

Tenth Report: Complaint against Mr Peter Brooke (HC 1147)
Published 24 July 2002.

Minutes of Proceedings 2001–02 (HC 1336)
Published 31 January 2003.

SESSION 2002–03

First Special Report: Standards of Conduct: Letters from the Committee on Standards in Public Life (HC 516)
Published 12 March 2003.

First Report: Complaint against Mr Nigel Griffiths (HC 195).
Published 18 December 2002.

Second Report: Eighth Report of the Committee on Standards in Public Life: “Standards of Conduct in the House of Commons” (HC 403)
Published 11 February 2003.

Third Report: Complaints against Mr Michael Trend (HC 435)
Published 13 February 2003.

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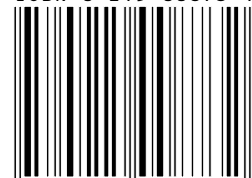
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