



Parliamentary Commissioner for Standards

Annual Report 2005–06

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Contents

Annual Report 2005–06		<i>Page</i>
	Foreword	3
1	Strengthening the Standards System	5
	Review of the Code of Conduct	5
	Review of the Rules relating to the Conduct of Members	6
	The Electoral Administration Bill	6
	Draft Corruption Bill	8
	Appointment of Adviser on Ministerial Interests	8
2	Emphasising Prevention	9
	Briefing Members	9
	Preparation of the First Register of the New Parliament	10
	Advising the House and Individual Members	10
3	Considering Complaints	12
	Overview: A Pleasing Reduction	12
	Complaints in 2005-06	13
	Members the Subject of Complaints in 2005-06	15
	Reports to the Committee in 2005-06	15
	Use of Rectification Procedure	16
	Frivolous and Vexatious Complaints	16
4	The Other Registers	17
	Members' Staff Register	17
	Journalists' Register	17
	All-Party Groups' Register	18
	Overlap between the Registers	18
	Access to the Registers	19
	Complaints	19
	(i) Complaints against Members' Staff	19
	(ii) Complaints about All-Party Groups	20
	Publication of the Register of Members' Secretaries and Research Assistants	21
5	Looking Outwards	22
	Openness and Accountability	22
	Overseas and Other Visitors	22
	Hong Kong	23
	Working with Others	23
6	Resourcing the Work	24
	Cost of the office of the Parliamentary Commissioner for Standards 2003–04 to 2005-06	24
7	Conclusion and Forward Look	25

Appendix 1: Standing Orders Nos. 149 & 150, as amended by the House on 13 July 2005	26
Appendix 2: Description of the Arrangements for Regulating Standards of Conduct in the House of Commons	29
Appendix 3: The Frank Stacey Memorial Lecture, 2005	33

Foreword

I am pleased to present my fourth annual report to the House.

Standards in public life were much in the headlines as the year covered by this report came to a close. What put them there, however, were not scandals in Parliament but concerns about party funding and the application of the separate Code of Conduct for Ministers (the Ministerial Code) promulgated by the Prime Minister. As I write, various inquiries are underway into party funding and new arrangements for advising Ministers on potential conflicts of interest have been introduced by the Government.

On the Parliamentary front, the situation has been more positive. The number of complaints falling within the scope of the Code of Conduct and the Guide to the Rules is down. Although there can never be cause for complacency, the past year has seen, in the words of Sir Alistair Graham, Chairman of the Committee on Standards in Public Life, “a maturing of the regulatory systems in Parliament” which his committee helped set up.¹ The Code of Conduct for Members has been reviewed and the outcome approved by the House, and a review of the Guide to the Rules relating to the Conduct of Members is now underway. The General Election of 2005 was followed by a major effort to brief new and returning Members of the House on their ethical responsibilities. Details of these and other initiatives are given later in this report.

2005 also saw the 10th anniversary of the establishment of the Parliamentary standards arrangements of which my office forms part. Over the past 10 years, those arrangements have gradually been strengthened to the point where, I believe, they can fairly be said to provide a robust and impartial means of investigating complaints and seeking to prevent wrong-doing. I pay tribute to my two predecessors and to successive chairmen, members and clerks of the Committee on Standards and Privileges for this outcome. As the independent Committee on Standards in Public Life has confirmed, standards of conduct in the House of Commons are generally high, and, I would add, bear favourable comparison with those in many other countries.²

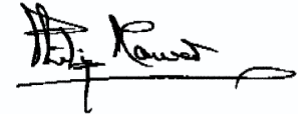
I was able to take advantage of an invitation to deliver the Frank Stacey memorial lecture in September 2005 to reflect on the progress made and on the challenges ahead.³

¹ Address by Sir Alistair to an open meeting of his Committee, 9 March 2006

² Cm 5663, para 2.7

³ The text of the lecture is reproduced at Appendix 3 to this report

More remains to be done, as I describe in this report. With the continued commitment of Members and the House authorities to building the credibility of Parliament's standards machinery, however, there is real encouragement that there will be further progress in the future.

A handwritten signature in black ink, appearing to read 'Sir Philip Mawer', with a long horizontal flourish extending to the right.

18 July 2006

Sir Philip Mawer

1 Strengthening the Standards System

Review of the Code of Conduct

1.1 On 13 July 2005, after a short debate, the House approved a revised Code of Conduct for Members. The revised Code was the product of a process of review initiated the previous year, following a recommendation by the Committee on Standards in Public Life that the Code should be reviewed once in the lifetime of each Parliament.⁴ Preparation of the revised Code included a process of public consultation, which I described in full in my last annual report.⁵

1.2 In its report to the House recommending the revised Code,⁶ the then Committee on Standards and Privileges identified the main changes proposed as:

- a) The addition of provisions to make clearer the purpose and scope of the Code;
- b) New statements of Members' duties in respect of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges, implementing recommendations made by the Committee on Standards in Public Life; and
- c) The extension of the existing provisions regarding misuse of Parliamentary allowances to misuse of facilities and services provided by the House.

The amended Code also included an explicit commitment to equality, in the shape of a new provision committing Members to uphold their legal obligations in this respect.

1.3 The extension of the Code to include misuse of facilities and services meant an increase in the scope of the complaints I can consider, and the Committee on Standards and Privileges expressed its concern that this should not lead to the overloading of my office. As I describe in Section 3 of this report, there has been a noticeable impact from this change so far, particularly in relation to complaints of alleged misuse of official House stationery and post-paid envelopes. This has necessitated the development of a closer working relationship with the Serjeant at Arms and his staff, on whom rests the day-to-day responsibility of administering the House's arrangements in this area. I am grateful for their help in discharging my new responsibilities.

1.4 The Committee on Standards and Privileges recommended, and the House accepted, that Standing Order No. 150 should be amended to enable me to dispose of minor cases of misuse of allowances or of facilities and services by, with the agreement of the Member concerned, referring them to the relevant Officer of the House for the Member to make appropriate reimbursement. This provision parallels the arrangement which has for a longer period empowered me to dispose of minor cases of failure to register or declare interests under what is known as the 'rectification procedure'.⁷ Changes to the Standing Order implementing this recommendation were approved at the conclusion of the debate

⁴ Eighth Report, Cm 5663

⁵ HC 264, Session 2004-05

⁶ Fourth Report of Session 2004-05, HC 472

⁷ For a full description of this procedure, see Appendix 1 to my report for 2002-03, HC 905

on the amended Code, along with other minor amendments to Standing Order No. 149, which provides the order of reference for the Committee on Standards and Privileges, including a reduction in the size of the Committee from 11 Members to 10. This particular change followed agreement in the last Parliament that there should be a gradual movement towards a Committee of 10 members in which no party had overall control, and again implemented a recommendation in the Eighth Report of the Committee on Standards in Public Life.

1.5 The text of Standing Orders Nos. 149 and 150 as amended at the end of the debate is reproduced at Appendix 1 of this report.

1.6 Speaking in the debate on the approval of the revised Code, the Chairman of the Committee on Standards and Privileges, the Rt Hon Sir George Young, said:

“The proposed new code strengthens in a proportionate way the expectations of both the House and the public as regards Members’ conduct.”

It is pleasing to report that, at the end of the debate, the motions before the House were approved without a Division.

Review of the Rules relating to the Conduct of Members

1.7 The adoption of the amended Code shortly after the start of the current Parliament in 2005 both fulfilled one of the recommendations of the Committee on Standards in Public Life and paved the way for a review of the Guide to the Rules relating to the Conduct of Members. The Guide is, of course, the detailed document which sets out the Rules relating to the registration and declaration of interests by Members, and outlines the procedure for handling complaints.

1.8 The Registrar of Members’ Interests and I took proposals to the Committee on Standards and Privileges early in 2006 for the conduct of this review, which is now underway. As with the review of the Code, our overall aim will be to simplify and clarify expectations of Members whenever possible, and generally to make the Guide more accessible to both Members and the public. I shall report more fully in 2007, by which time I expect the review to have been concluded. This will mean that both the Code and the Guide – the two key documents embodying the House’s standards arrangements – will have been revised relatively early in the life of the current Parliament. In future Parliaments, I expect the process of review of both documents to be combined.

The Electoral Administration Bill

1.9 At the same time as seeking opportunities to strengthen and make more effective the House’s standards arrangements, the Committee on Standards and Privileges and I are also anxious to ensure that the burden they impose on Members is not disproportionate. An opportunity to make progress on both objectives arose during the past year following the Government’s introduction of the Electoral Administration Bill.

1.10 At present Members are required by the Rules of the House to register and declare donations, gifts and benefits (including certain categories of overseas travel) they receive in their capacity as a Member of the House. Under Schedule 7 to the Political Parties,

Elections and Referendum Act 2000 (PPERA), they are also required to report such benefits received in their political capacity (ie, not only as a Member but as a candidate) to the Electoral Commission. A similar requirement applies to other holders of ‘relevant elective office’, such as United Kingdom members of the European Parliament, and Members of the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, and local authority.

1.11 In recent years, the House has sought to reduce the scope for uncertainty among Members about these obligations by, for example, aligning the threshold for registration of donations and sponsorship under category 4 of the Guide to the Rules with the threshold for registering similar benefits with the Commission. However, the dual reporting requirement – with its overlapping but, in certain respects, slightly different demands for information about essentially the same set of circumstances – continues to be a potential source of confusion, as recent events have demonstrated,⁸ as well as imposing additional burdens, neither of which assist effective compliance.

1.12 Following initial conversations the Registrar and I had with the Electoral Commission and indications from the Commission that it was fully alive to the problems caused by the dual reporting requirement, and after discussion in the Committee on Standards and Privileges in the wake of consideration of a particular case (on which I report in paragraph 3.13 below), the Chairman of the Committee wrote to the Secretary of State for Constitutional Affairs, urging consideration of a ‘one-stop shop’ arrangement under which Members would report all necessary information relating to their role as Members to the Registrar of Members’ Interests. This information would then be available to the Commission from the published Register, so enabling it to fulfill its statutory duties. The Government responded favourably to this proposal and at the Commons’ Report stage of the Electoral Administration Bill the House added a provision which will enable the Commission to cease to require the reporting to it of the required information once it is satisfied that this is available through the House’s own arrangements. Similar arrangements will be able to be made in respect of other categories of elected representative covered by PPERA. The Committee on Standards and Privileges reported these developments to the House in its Fifth Report of Session 2005-06, HC 807.

1.13 The Registrar and I are discussing with the Electoral Commission what would be the precise consequences for the House’s registration regime of seeking to combine the House’s present Rules with the Commission’s current requirements. We will be reporting the outcome of that discussion to the Committee on Standard and Privileges. It will then be for the Committee to advise the House on whether or not to proceed to a ‘one-stop shop’ registration arrangement. Such a change will undoubtedly require Members to furnish rather more information to the Registrar than they do at present.⁹ On the other hand, this is information which Members would in any case need to continue to supply separately to the Commission if the ‘one-stop’ arrangement is not introduced. If the ‘one-stop’ arrangement can be successfully introduced, it should reduce the scope for confusion and

⁸ In the spring of 2006, the press reported that certain Members, who had complied with their obligations to the House to register certain overseas visits, had failed to register similar information as required with the Electoral Commission

⁹ Not least because one of the provisions of the Electoral Administration Bill will extend the reporting requirement under PPERA to loans as well as donations made for a political purpose

ease the overall reporting burden on Members, without a reduction in transparency to the public, thus assisting more effective compliance.

Draft Corruption Bill

1.14 In my last report I mentioned that the Government had still not produced a revised draft of this Bill, following the report of the Joint Committee on an earlier version of the Bill.¹⁰ That remains the position. While appreciating the many pressures on the legislative programme, it is a matter of some concern that this important measure – which will clarify the law on corruption, including putting beyond doubt the fact that it applies to Members as to other citizens – has not yet been introduced.

Appointment of Adviser on Ministerial Interests

1.15 Although the House's Code of Conduct applies to all Members, including those who are Government Ministers, the conduct of Ministers in that capacity is subject to a separate Code – the Ministerial Code – promulgated by the Prime Minister.¹¹ The absence of any independent element in the arrangements for advising Ministers on the avoidance of potential conflicts of interest and for applying the Ministerial Code was the subject of recommendations in the Ninth Report of the Committee on Standards in Public Life.¹²

1.16 The distinction between the conduct of Ministers in that capacity and their conduct in their capacity as Members of Parliament is not one which it is always easy for the public to follow and the absence of equivalent arrangements for regulating Ministerial conduct to those which apply in the Parliamentary sphere causes a number of my correspondents to be puzzled. The Prime Minister's announcement in March of his appointment of Sir John Bourn KCB as the independent Adviser on Ministerial Interests is therefore a welcome step in providing the public with greater reassurance in this area. As the Committee on Standards in Public Life has noted, there are still questions surrounding certain aspects of this new arrangement, and other issues identified in the Committee's Ninth Report have still not been addressed. Nonetheless Sir John's appointment is a step forward, and I welcome it.

1.17 As I have indicated, the boundary between the Parliamentary and the Ministerial is not always easy to determine and there will therefore need, on occasion, to be close liaison between Sir John's office and my own. With this in mind, I have already had a preliminary meeting with Sir John and look forward to building a strong working relationship in future.

¹⁰ HC 705, Session 2002-03

¹¹ The text of the Ministerial Code can be found at www.cabinet-office.gov.uk

¹² Cm 5775

2 Emphasising Prevention

Briefing Members

2.1 The calling of a General Election in the spring of 2005 meant the activation of the plans I detailed in paragraph 1.11 of my previous report for inducting new and returning Members of the House in their standards responsibilities. In the run-up to a possible election, the Registrar of Members' Interests and I had taken steps to remind Members of their obligations under category 4 of the Guide to the Rules in respect of the registration of political donations or sponsorship. In preparation for the return of the new House, we cleared with the former Committee on Standards and Privileges the text of a note advising Members on the obligation to declare their interests, an obligation of particular importance in the early months of a new Parliament before a printed Register of those interests has been published.

2.2 Copies of this note were sent to all Members shortly after the results of the election were known, along with a covering letter from me, other standards material and details of a series of briefings we put on for both those Members newly arrived in, and those returning to, the House. This programme of briefings was complementary to a wider set of induction seminars arranged by the House authorities. Our own programme involved:

- Short modules on the House's standards arrangements within the wider induction seminars just mentioned.
- More detailed briefings on standards-related matters in conjunction with representatives of the House's Department of Finance and Administration and of the Department of the Serjeant at Arms.
- With the assistance of the Whips of each of the principal parties, a slot on standards as part of each of those party's special induction arrangements for their own new Members.

2.3 This programme – along with our participation in the induction 'fair' arranged over several days for new Members – was a significant commitment for my small office, and I am grateful for the way in which all colleagues committed themselves to the task. Of these various initiatives, the most successful proved to be the induction days put on for new Members by the three main political parties, our participation in which enabled us to reach virtually all the newly elected Members in the House.¹³ Attendance at the other briefings was low, although it is encouraging that a number of long-established Members used them as an opportunity to brush up their knowledge. I am grateful for the help of the Whips in ensuring that we were able to deliver a consistent message about standards to virtually all Members newly elected to the House.

2.4 We also experimented with a briefing for Members' staff, many of whom of course also change at the beginning of a new Parliament. Whilst the responsibility for complying with the Code and the Guide rests squarely on Members, in this area as in others Members

¹³ We arranged individual briefings for the few new Members not at these events

frequently rely heavily on their staff for help and advice. Attendance at this briefing was, however, very thin, perhaps because of the other demands on the time of staff on the day. However, the Assistant Registrar now has a regular opportunity to brief newly arrived Members' staff at the training sessions put on for them by the House. This has proved a more consistently effective means of engaging with such staff, both about their obligations in respect of the registration of their own financial interests (see Section 4) and about the obligations resting on those for whom they work.

Preparation of the First Register of the New Parliament

2.5 Alongside this extensive programme of briefings, the Registrar and Executive Assistant engaged in advising many individual Members, both new and returning, on the implications of the Code and Rules for their own particular circumstances. Members are required to complete a registration form and submit it to my office within three months of their election to the House. This meant that returns should have been submitted by 11 August 2005 but in the event a significant number had still not been received on the due date and, where they had been received, many queries were outstanding. However, vigorous follow-up meant that all entries were completed in time for us to publish the first Register of the new Parliament on 1st November 2005. I pay tribute to the hard work of the Registrar and the Executive Assistant in achieving this.

2.6 Since the first printed Register of the current Parliament was issued, my office has continued to publish updated editions of the Register on the internet at 6-8 week intervals. We reviewed this frequency of updating recently and believe it feasible in future to update the web edition of the Register twice a month while the House is sitting. This will ensure that both Members and the public have a more up-to-date Register available for scrutiny. We intend to pilot this new arrangement after the summer 2006 recess.

Advising the House and Individual Members

2.7 The advice given to many Members prior to publication of the first Register was simply one instance of the core task of my office in advising Members on how to meet their obligations under the Code and the Rules. As can be seen, we do this both by issuing general advice and by responding to requests for advice from individual Members. This responsibility falls primarily on the Registrar and Executive Assistant, consulting me as necessary in particularly difficult or complex cases.

2.8 I take this opportunity to underline once again the importance of Members seeking advice, especially in any circumstance which is unusual or in which they are uncertain how to proceed. Advice taken in advance of commitment to a particular course of action can save difficulty and embarrassment later, as well as ensure that the public interest is protected.

2.9 I am sometimes asked if there is not an inherent conflict between my role as adviser in individual cases and my role in investigating complaints. I seek to diminish any such conflict by trying to ensure that the Registrar is seen by Members as the first port of call for advice. Only if she or the Executive Assistant (both of whom now have considerable experience in these matters) are faced with a novel or particularly complex set of circumstances do they come to me for a second opinion. In over 4 years now in my role, I

have not found any conflict between the two functions. In fact one helpfully informs the other. And if a complication were to arise, the way forward would be to make it known to the Committee on Standards and Privileges so that it could rule on the way forward.

3 Considering Complaints

Overview: A Pleasing Reduction

3.1 The handling of complaints is not the only important aspect of my work but it is the one which attracts most public, and certainly media, attention. As the table below shows, the number of letters of complaint received in my office in 2005-06 was broadly the same as that in 2004-05 (134 as against 137). The number of specific letters of complaint against a named Member rose from 118 to 130. However 40 of those letters of complaint (along with 39 e-mails on the same subject) were about the decision of one Member to appear in a television 'reality show' in January 2006. When those 40 are subtracted, the number of specific complaints against a named Member shows a pleasing reduction from 118 to 90. Although some of this reduction may be attributable to the fact that the House was dissolved for a month during the General Election campaign, not all of it can be accounted for in that way. Similarly the number of complaints proceeded with (ie those complaints which were the subject of either preliminary or full investigation) fell from 42 to 23. I submitted 3 reports to the Committee on Standards and Privileges: all of these related to complaints carried over from the previous year.

Complaints in 2005-06

	Apr-June 2005	July-Sept 2005	Oct-Dec 2005	Jan-Mar 2006	Totals: April 05- March 06	Totals: April 04- March 05
1. All Matters of Complaint received	21	14	26	72	133	137
2. Specific complaints against a named Member	20	12	25	72	129	118
3. Not proceeded with: reason	(a) 16	(a) 10	(a) 19	(a) 60	105	67
(a) outside remit;						
(b) other	(b) 0	(b) 1	(b) 0	(b) 0	1	9
4. Complaints proceeded with	4	1	6	12	23	42
5. Complaints subject of preliminary inquiry then dismissed	4	0	6	5	15	15
6. Complaints subject of further investigation	0	1	0	7	8	27
7. Complaints dealt with by rectification procedure	0	0	0	0	0	0
8. Complaints subject of a report to Committee on Standards and Privileges	0	0	0	0	0 ¹⁴	21

3.2 As the table shows, a large proportion of the letters of complaint I receive raise matters outside my terms of reference. Some of the complaints I am able to refer to other appropriate authorities. During the past year, 10 of the 105 cases which fell outside my remit were, for example, referred to the Serjeant at Arms, since they involved minor complaints of misuse of House of Commons stationery or post-paid envelopes. Even so I considered a number of stationery – related complaints in the year, following the extension in July 2005 of the scope of the Code to embrace misuse of facilities and services which I have noted in Section 1. The overall reduction in the number of complaints falling within my terms of reference is particularly positive given that it occurred during a year when the scope of my remit was widened by this amendment to the Code.

3.3 The great majority of complaints which fall outside my terms of reference concern a Members' handling of a constituent's case. Here I am sometimes able, as a result of the correspondence I receive, to alert the Member to some new factor which they have not previously been able to consider, but it is essentially a matter for the judgement of the elected Member (not an unelected Commissioner) how best to discharge their obligation to their constituent. Often these cases show evidence of sustained effort by a Member to

¹⁴ See paragraph 3.7 below

help their constituent; and the reason that this effort has not brought the constituent (and complainant) the answer they wanted lies elsewhere.

3.4 I also do not consider complaints about the views or opinions expressed by a Member, or which boil down to a difference of view with the Member about how he or she should be doing their job. This was the reason why I declined to pursue the 40 letters of complaint I received about a Member's appearance on a reality television show. Those who complained to me felt that such an appearance took the Member away from his basic task of representing his constituents in the House and dealing with their problems. The Member felt that it was in his constituents' interest to take the opportunity the show provided to advance arguments and policies in which he believed, and to reach out to an audience he might not otherwise have gained for them.

3.5 As I pointed out to those who complained, there is no generally accepted job description for a Member. How Members do their job is a matter for each one of them to decide. They are answerable for their decisions about this to the electorate. In essence, if a constituent is unhappy either about the way their Member of Parliament is carrying out his or her job, either in general or in handling their own case in particular, the remedy available to them is through the ballot box.

3.6 During the year covered by this report, 15 complaints which fell within the ambit of the Code were dismissed after preliminary investigation. Sometimes these investigations are limited to initial contact with the Member: it is clear from the response given by the Member to the complaint that there is a simple explanation for what has happened and that no breach of the Code has occurred. In others, the position is not so straightforward and I become involved in quite extensive inquiries to establish if there is clear evidence of a breach of the Code. This was the position in relation to a number of complaints during the last year. In all cases in which I decide that the evidence does not warrant me proceeding to a report to the Committee, I try to give the complainant a clear explanation of the circumstances which have led me to that decision.

3.7 None of the complaints I received in 2005-06 were the subject of a formal report to the Committee on Standards and Privileges in the same year. Eight cases (7 of which had been received in the last quarter of the year) were outstanding at the end of the year. However, all but one of these had been reported to the Committee by the time of writing of this report. 3 reports relating to complaints received in 2004-05 had been submitted to the Committee during the period covered by this report: I briefly describe the nature of these below.

Members the Subject of Complaints in 2005-06

3.8 Last year I included in my report for the first time a table showing the number of Members who were the subject of a specific complaint in the year in question. I append a similar table below. Readers will see that the number of Members who were the subject of a specific complaint fell from 93 to 79.

	April – June 2005	July – Sept 2005	Oct – Dec 2005	Jan – March 2006	Total April 05-March 06	Total April 04 – March 05
1. No. of Members the subject of a specific complaint	17	11	22	29	79	93
2. No. of Members involved in complaints proceeded with	4	1	5	11	21	23
3. No. of Members involved in complaints the subject of further investigation	0	1	0	7	8	8
4. No. of above Members the subject of a report to the Committee on Standards and Privileges	0	0	0	0	0	3

Whilst no reports were made in the same year on Members who were the subject of a complaint in 2005-06, reports had been submitted on all but one of these Members by the time of writing this report. Three reports on Members who were the subject of complaints in 2004-05 were presented to the Committee in 2005-06, and to these I now turn.

Reports to the Committee in 2005-06

3.9 As explained above, I made three reports to the Committee on Standards and Privileges during the past year. All of these reports related to complaints received during the previous year. Consideration of the reports had to await the establishment of the Committee in the new Parliament.

3.10 The first was by way of follow-up to an earlier report on the same Member.¹⁵ It focused on discrepancies in the Member's claims under the Additional Costs Allowance (ACA). I reported that the Member (who had in fact retired from the House at the end of the previous Parliament) had repaid a total of £16,613.67 to the House.

3.11 The Committee upheld my view that the Member had not properly observed the administrative rules relating to the allowance. Had the Member not left the House at the

¹⁵ Fifth Report of Session 2004-05 HC 473

end of the previous Parliament, the Committee would have given serious consideration to suspending him from the House for a further period.¹⁶

3.12 The second report concerned complaints that two Members (one of whom had not been re-elected to the House in May 2005) had failed to register as sponsorship under category 4(a) of the Guide to the Rules certain donations received by their respective Constituency Associations.¹⁷ I dismissed one of these complaints following preliminary investigation because the Member concerned had personally played no part in soliciting the sponsorship. The second Member had, however, been involved personally in soliciting the sponsorship. Although the sponsorship had been reported to the Electoral Commission, and information about it was thereby in the public domain, it had not been recorded in the Register of Members' Interests. I therefore recommended that the Committee on Standards and Privileges uphold this complaint.

3.13 The Committee accepted my recommendation and an appropriate late entry was made in the Register, in the distinctive style used under the rectification procedure, the Member concerned having apologised for his oversight. Noting the duplication of reporting required of Members, the Committee urged the introduction of a single system through the creation of a one-stop reporting arrangement. This led eventually to the Committee's Fifth Report of Session 2005-06 (HC 807) and the addition of the provision in the Electoral Administration Bill which I have described in Section 1.

3.14 The third report concerned a complaint alleging that a Member had used official House of Commons stationery to further a business interest and had failed fully to disclose the nature of that interest when writing to a Government Minister.¹⁸ The Committee agreed with my conclusion that the Member concerned had failed to exercise sufficient care in separating his public role from his private business interests. As a result, he had breached the requirements of the Code of Conduct in a number of respects. The Member subsequently apologised to the House by way of a personal statement.

Use of Rectification Procedure

3.15 None of the cases considered in the year were resolved by the use of the rectification procedure.¹⁹ However, as previously mentioned (paragraph 3.13), a similar style entry was made in the Register at the conclusion of one case reported to the Committee.

Frivolous and Vexatious Complaints

3.16 I drew the attention of one complainant to the existence of the procedure for handling complaints of this sort following extensive inquiries I made into his complaint, which not only suggested that it was groundless but that an element of malice might be involved.²⁰ No complaints were formally referred to the Committee on this ground.

¹⁶ First Report of Session 2005-06, HC 419

¹⁷ Second Report of Session 2005-06, HC 420

¹⁸ Third Report of Session 2005-06, HC 421

¹⁹ For a description of the procedure see Appendix 1 to my Annual Report for 2002-03

²⁰ The procedure for handling complaints of this nature was set out in Appendix 2 to my Annual Report for 2003-04

4 The Other Registers

4.1 Ten years after the introduction of the Register of Members' Interests in 1974, the Select Committee on Members' Interests (a predecessor of the Committee on Standards and Privileges) conducted an inquiry into concerns about parliamentary lobbying and recommended that:

“When they are approached, Members of the House must be able readily to identify the source and true nature of the approach. Equally the full purposes of those with access to Parliament should be known. We are convinced that greater openness would now be beneficial in certain areas.”²¹

4.2 To meet those concerns the Committee concluded that registers should be set up for Members' staff, journalists and All-Party Groups. The Committee's recommendations were subsequently agreed by the House on 17 December 1985 and the first registers were published in 1986. The form and substance of each register are detailed in the sections below.

Members' Staff Register

4.3 Those holding a parliamentary pass as a Member's secretary or research assistant are required to register any other occupation or employment from which they receive income exceeding half of one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.²² They also have to register any tangible gift (e.g. glassware) and any other benefit (e.g. hospitality, service or facilities provided) which they receive, if the value of the gift or benefit exceeds that sum and relates in any way to their work in Parliament.

4.4 The number of staff on the register rose slightly, from 1536 on 31 March 2005 to 1553 on 31 March 2006. The number of these registering an interest fell, from 375 to 327.

Journalists' Register

4.5 Those holding a pass as a lobby journalist accredited to the Parliamentary Press Gallery or for parliamentary broadcasting are required to register any occupation or employment from which they receive income exceeding one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.²³

4.6 Turnover on the register is low. Of the 375 journalists on the register as at 31 March 2006, 76 had registered interests. This compares with 397 and 70 respectively at 31 March 2005.

²¹ Select Committee on Members' Interests, First Report, Session 1984-85, HC 261

²² Over £295 during the period of this report

²³ Over £590 during the period of this report

All-Party Groups' Register

4.7 The membership of All-Party Groups consists mainly of backbench Members of the House of Commons and Lords but may also include ministers and non-parliamentarians. There are two types of group: subject groups (relating to a particular topic, e.g. forestry) and country groups (relating to a particular country or region).

4.8 Inclusion on the Register of All-Party Groups is compulsory for any group which includes Members of the Commons from more than one party and has at least one officer who is from the Commons. Such groups are required to register the group's title and the names of its officers. Financial and material benefits received by the group as a whole must also be registered, where the group receives during a calendar year one or more benefits from the same source whose total value is £1000 or more. Lastly, the group must register the name and paid employment or occupation outside Parliament of any staff servicing the group who hold a parliamentary pass, if that occupation or employment is advantaged by the passholder's privileged access to Parliament.

4.9 Groups that qualify for inclusion on the Register of All-Party Groups may also apply for inclusion on the Approved List. Both are compiled by my office. By being on the Approved List, a group qualifies for certain entitlements, largely to do with use of the House's facilities. Additional rules apply to groups on the List. For example, they must hold annual elections for their officers and must also register the names of a minimum of ten Members from the Government party and ten from the Opposition parties. All but 6 groups are on both the Register and the Approved List.

4.10 The number of registered groups as at 31 March 2006 was 422, as opposed to 443 in March 2005. The usual pattern is for the number of groups to be at its highest towards the end of a parliament, to then drop after a general election (when all groups have to re-register), before rising again to equal or exceed the previous Parliament's total. Of the 2006 total, 111 were country groups and 311 were subject groups whilst the corresponding figures for 2005 were 122 and 321. The number of groups registering the receipt of financial or material benefits fell during the same period from 269 to 259.

Overlap between the Registers

4.11 Overlap between the various Registers kept by my office is an increasingly common occurrence. Subject to the different financial thresholds that apply to each of the registers, examples arise when:

- a) Hospitality (eg relating to overseas visits) is received by an all-party group. This should be registered on both the Groups' and Members' register (and may also need to be registered with the Electoral Commission, depending on its value to each individual Member).
- b) An external organisation or individual subsidises a staff member's salary. This should be registered on both the Staff and Members' register, and if the staff member acts as part of the staff to an All-Party Group, on the Groups' register as well.

4.12 It is important that Members keep in mind the potential need to make entries in more than one of the Registers arising from the same circumstances.

Access to the Registers

4.13 The three registers are not published in hard copy form but are published on Parliament's internet website. A paper copy of each register is also held at the House of Commons where anyone may inspect it by arrangement.²⁴ An updated edition of each register is usually issued every 4-6 weeks when the House is sitting.

Complaints

4.14 In contrast with the preceding year, in which I received no complaints relating to the other Registers, the past year was unusually busy in this respect.

(i) Complaints against Members' Staff

4.15 I received two complaints that staff employed by Members who held passes giving them access to the Palace of Westminster had failed to register an occupation or employment, from which they received income exceeding £295 in one year, which might be advantaged by the privileged access to Parliament afforded by their pass. Both cases involved staff who were also local authority councillors. After making inquiries, I upheld both complaints. Since both appeared to be the result of a genuine oversight combined with a failure properly to understand the Rules, I decided to handle both by applying to them an approach similar to the rectification procedure which can be applied to a minor, inadvertent and admitted failure to register an interest by a Member.²⁵ Accordingly, appropriate late entries were made in the relevant Register and I reported the outcome informally to the Committee on Standards and Privileges.

4.16 I also took the opportunity to remind Members' staff, and Members themselves of the relevant Rules through a notice circulated in the All Party Whip. This drew attention to the fact that, as is the case with Members, remunerated employment includes not only that for which a salary or fee is received but also one where the remuneration consists of taxable expenses, allowances or benefits.²⁶ The 'advantage' which possession of a pass may bring is not limited to a financial advantage but is anything which might reasonably be thought to benefit the person concerned in relation to carrying out their remunerated occupation or employment. Thus the privileged access to Members and others, and to the facilities of the House, afforded by a pass might readily be seen as an advantage to any local councillor.

4.17 In one of the two cases, the local councillor concerned had given her parliamentary e-mail address as a means of contacting her on a newsletter circulated locally by her party. I advised her that this was inappropriate and that she should have given her local authority or local party address. Since the person concerned retired as a councillor at the May 2006 elections, there was no question of her having derived any personal political benefit from the arrangement.

²⁴ Requests to consult the registers should be made to the main Committee Office at the House of Commons by calling 020 7219 4300

²⁵ For a description of the rectification procedure, see Appendix 1 to my Annual Report for 2002-03, HC 905

²⁶ For the applicable definition of "remuneration", see paragraph 17 of the Guide to the Rules relating to the Conduct of Members, HC 351, Session 2005-06

(iii) Complaints about All-Party Groups

4.18 In the autumn of 2005 I received a number of complaints relating to one of the many All-Party Groups in the House which focuses on a particular health-related illness or condition. The letters alleged that a particular patient support group concerned with this condition had been excluded from meetings of the Group and that the Group's agenda was effectively being set by two other patient support groups whose approach to the matter was different from the first group's and which provided administrative assistance to the All-Party Group.

4.19 The House's approach to the regulation of All-Party Groups seeks to apply the minimum of rules necessary in the public interest while giving Groups a large degree of autonomy in the conduct of their internal affairs. There was no evidence that the All-Party Group in question had failed to observe the House's Rules. I therefore advised the complainants accordingly. However, I also alerted the Chairman of the Group to the concerns which had been expressed, and he made clear that there was no question of the patient support group of which they were members being excluded from meetings of the All-Party Group. I was therefore able to convey this assurance to the complainants.

4.20 On 13 and 14 January 2006, The Times newspaper ran a story alleging that a number of All-Party Groups had failed to comply with the Rules, in that they had failed to include in the Register the name of the ultimate client of the public affairs company which was providing administrative support for each Group in question. I subsequently received a formal complaint to this effect from the Editor of "The Times". In his letter, the Editor also raised a number of wider questions about the framework of regulation of Groups laid down by the House.

4.21 Not only was the complaint the first of substance to be raised since that framework had been laid down in 1985, it also combined both specific allegations about 6 named Groups with more general questions of principle about the House's Rules. I therefore decided on a twin-track approach, in which I conducted specific inquiries of the named Groups alongside a more general consultation process with Members, representatives of the public affairs industry and charitable bodies with a particular interest in the functioning of All-Party Groups.

4.22 In my report to the Committee on Standards and Privileges (delivered just outside the period of this report) I recommended that the complaint be upheld against 3 of the 6 named Groups. I also made a number of recommendations designed to strengthen the House's regulatory framework, while preserving as much flexibility as possible for Groups to get on with their work. The Committee upheld my findings on the specific complaints and agreed to consult more widely on my recommendations for change in the regulatory framework.²⁷ That consultation process is currently underway and I expect to be able to indicate the outcome in my next annual report.

²⁷ Ninth Report of Session 2005-06, HC 1145

Publication of the Register of Members' Secretaries and Research Assistants

4.23 During the autumn of 2005, the Committee on Standards and Privileges and I considered whether there were grounds for changing the present practice of publishing this Register (“the Members’ Staff Register”) on the internet in the light of changing concerns about security. Having taken appropriate advice, the Committee agreed with my recommendation that no change in current practice would be justified at this point. There is no evidence at the present time that the staff of Members who hold Parliamentary passes are particularly vulnerable and the Register is only one way in which the names of such staff enter the public domain. Many are, for example, listed by Members on their websites or in other contexts as a means of enabling constituents to make contact with their Member.

4.24 The Committee was, rightly, concerned that staff representatives should be consulted about this question. Staff representatives agreed with the Committee’s conclusion that, at the moment, the balance of advantage continues to lie in the greater transparency which publication of the Members’ Staff Register on the internet affords. However, both the Committee and I intend to keep the position under regular review and if there is any indication of a need to consider changing current practice, we will not hesitate to do so.

5 Looking Outwards

Openness and Accountability

5.1 The Committee on Standards and Privileges and I have continued with the approach to releasing information about the way the House's standards arrangements work which I set out in my first annual report.²⁸ This may be summarised as combining openness about the way the system works with confidentiality in the investigation and consideration of individual cases. Of course, the results of my investigation, and of my and the Committee's consideration of cases, are made fully available when the Committee's reports to the House are published.

5.2 Consistent with this approach, I have again addressed and answered questions from a number of groups about the House's standards arrangements during the past year. In September 2005, I was honoured to be invited to deliver the Frank Stacey Memorial Lecture at the annual conference of the Public Administration Committee of the Joint University Council. On 5 April 2006, I took part in a seminar at the conference of the Political Studies Association (PSA) held at the University of Reading.

5.3 I value these and other such occasions as an opportunity to engage in informed debate about the maintenance of standards in the House, to widen knowledge of what is happening and to be challenged about the House's arrangements. The development of an informed and questioning body of academic interest and research in these matters is an important element in helping to strengthen the existing arrangements and to build their credibility into the future.

5.4 One piece of, as yet unpublished, research presented at the PSA conference suggested that attitudes among a sample of MPs to various hypothetical, potentially "corrupt" scenarios with which they were presented by the researcher had hardened considerably since a similar study was undertaken in the late 1980's. This is clearly encouraging and accords with my own impression that we are gradually seeing attitudes in the House switch to a more "professional" culture, in which expectations of Members are both more clearly articulated and more generally upheld.

5.5 In the Frank Stacey Memorial Lecture, I sought to map out the strategic approach which I have taken to my role since my appointment. I have appended the text of the lecture to this report (Appendix 3) as, I hope, a useful means of setting some of the detail of the report in a wider context.

Overseas and Other Visitors

5.6 As well as talks of the sort I have described, the Registrar of Members' Interests and I have continued to receive many visitors from abroad, often as part of programmes arranged by the British Section of the Inter-Parliamentary Union (IPU), the Commonwealth Parliamentary Association (CPA) and others. The Chairman and Clerk of the Committee on Standards and Privileges also regularly engage in this process. In the

²⁸ Appendix 2, Annual Report 2002-03, HC 905

past year we have briefed visitors from Albania, Australia (New South Wales), Bahrain, Bulgaria, Canada, China, Colombia, Georgia, Italy, Russia, Slovakia, Thailand, Tunisia and Turkey. The Registrar visited Bucharest with French, German and other EU colleagues as part of a project under the PHARE programme. I have also again addressed visiting industrialists learning about Parliament under the auspices of the Industry and Parliament Trust.

Hong Kong

5.7 I took the opportunity of a private visit to Hong Kong in September 2005 to build on previous contacts with the Hong Kong Legislative Council. I was invited to address Members and staff of the Council, and have subsequently been able to meet senior staff of the Council visiting London.

Working with Others

5.8 The Registrar and I also maintain regular contact with colleagues in the Committee on Standards in Public Life, the Electoral Commission, the Cabinet Office and other bodies concerned with standards matters. In November 2005 we were pleased to attend the annual informal gathering of Clerks of Standards Committees drawn from the Parliaments and devolved assemblies across the British Isles, which on this last occasion was held in Edinburgh. This is always an invaluable opportunity to exchange experience and discuss different approaches to what are often common problems. I also attended the annual conference of local government standards committees organised by the Standards Board for England in Birmingham in September 2005.

5.9 In all these ways, my office seeks to ensure that we both share our own learning with others and are in turn challenged by and learn from their experience. While standards systems have to be consistent with the culture in which they are established, it is increasingly possible to detect common problems, principles and approaches. The growing interest in these matters abroad, partly as a result of the process of EU enlargement, affords the UK a good opportunity to share its own experience, to the assistance of all. Indeed there may be a case for the UK Parliament taking the lead in fostering the development of the international network of parliamentary standards authorities which is already beginning to exist in embryo.

6 Resourcing the Work

6.1 The overall cost of running my office during the past year was slightly higher than in 2004-05, as the table below shows.

Cost of the office of the Parliamentary Commissioner for Standards 2003–04 to 2005-06

	2003-04 £	2004-05 £	2005-06 £
Staffing etc	301,425	298,869	308,121
Running Costs	33,833	3,964	8,713
Total	335,258	302,833	316,834

6.2 There were no changes in the staffing of the office (which, given that a number of my colleagues work part-time, consists of 4.7 full-time equivalent staff, including my own post) and the increase in staff costs reflected public sector pay settlements. The rise in running costs is largely explained by the bulk printing of advice material in preparation for the new Parliament, together with some additional travel and transcription costs associated with a major inquiry.

6.3 Sustaining that same inquiry alongside all the other demands on the office has proved a considerable challenge for my small team. We have therefore been grateful for some limited assistance from the Department of the Clerk of the House in relation to particular aspects of the inquiry. It is comforting in this context that the House of Commons Commission has indicated that, if the needs of the work were to require an increased level of resourcing, it would be willing to make available whatever was required.²⁹

²⁹ HC 905, Session 2002-03

7 Conclusion and Forward Look

7.1 We face a busy year in building on the progress recorded in this report. The completion of the review of the Guide to the Rules will have to be followed by an intensive programme of briefing Members on any agreed changes, preparing the first Register on the new basis, and amending all the associated documentation and guidance. This programme will have to be dovetailed with any changes approved by the House in order to implement the ‘one stop shop’ provision in the recently-enacted Electoral Administration Act described in Section 1 of this report. The Committee on Standards and Privileges and I will be continuing our efforts, in support of other parts of the House, to secure clearer rules and guidance for Members in such areas as the use of publicly funded stationery and postage and the application of allowances. And all this will have to be done whilst we continue to process with fairness, impartiality, thoroughness and appropriate dispatch whatever complaints against Members may arise.

7.2 Maintaining such a programme would not be possible without the commitment of many colleagues – especially those in the small team in my office, to whom I pay warm tribute – and the support of the Committee on Standards and Privileges, in particular its Chairman, Sir George Young, and its Clerk, Dr Christopher Ward. I also value greatly the support of concerned outsiders, whether in other standards bodies, in academia or in the media. I thank them all. Whatever continued progress we may make will be through the efforts of many rather than a few.

18 July 2006

Sir Philip Mawer

Appendix 1: Standing Orders Nos. 149 & 150, as amended by the House on 13 July 2005

149.—(1) There shall be a select committee, called the Committee on Standards and Privileges—

(a) to consider specific matters relating to privileges referred to it by the House;

(b) 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; and to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; and

(c) to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to the committee's attention by the Commissioner; and to recommend any modifications to such code of conduct as may from time to time appear to be necessary.

(2) The committee shall consist of ten Members, of whom five shall be a quorum.

(3) Unless the House otherwise orders, each Member nominated to the committee shall continue to be a member of it for the remainder of the Parliament.

(4) The committee shall have power to appoint subcommittees consisting of no more than seven Members, of whom three shall be a quorum, and to refer to such subcommittees any of the matters referred to the committee.

(5) The committee and any subcommittee shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, to report from time to time, to appoint legal advisers, and to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference.

(6) The committee shall have power to order the attendance of any Member before the committee or any subcommittee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of a subcommittee or of the Commissioner, be laid before the committee or any subcommittee.

(7) The committee, or any subcommittee, shall have power to refer to unreported evidence of former Committees of Privileges or of former Select Committees on Members' Interests and to any documents circulated to any such committee.

(8) The committee shall have power to refuse to allow proceedings to which the public are admitted to be broadcast.

(9) Mr Attorney General, the Advocate General and Mr Solicitor General, being Members of the House, may attend the committee or any subcommittee, may take part in deliberations, may receive committee or subcommittee papers and may give such other assistance to the committee or subcommittee as may be appropriate, but shall not vote or make any motion or move any amendment

or be counted in the quorum.

150.—(1) There shall be an Officer of this House, called the Parliamentary Commissioner for Standards, who shall be appointed by the House.

(2) The principal duties of the Commissioner shall be—

(a) to maintain the Register of Members' Interests and any other registers of interest established by the House, and to make such arrangements for the compilation, maintenance and accessibility of those registers as are approved by the Committee on Standards and Privileges or an appropriate subcommittee thereof;

(b) to provide advice confidentially to Members and other persons or bodies subject to registration on matters relating to the registration of individual interests;

(c) to advise the Committee on Standards and Privileges, its subcommittees and individual Members on the interpretation of any code of conduct to which the House has agreed and on questions of propriety;

(d) to monitor the operation of such code and registers, and to make recommendations thereon to the Committee on Standards and Privileges or an appropriate subcommittee thereof; and

(e) to receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of—

(i) the registration or declaration of interests, or

(ii) other aspects of the propriety of a Member's conduct,

and to report to the Committee on Standards and Privileges or to an appropriate subcommittee thereof unless the provisions of paragraph (3) apply.

(3) No report shall be made by the Commissioner:

(a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

(b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable.

(4) The Commissioner may at any time in the course of investigating a complaint, and if so requested by the Committee on Standards and Privileges shall, appoint an Investigatory Panel to assist him in establishing the facts relevant to the investigation.

(5) An Investigatory Panel shall—

(a) consist of the Commissioner, who shall be Chairman of the Panel, and two assessors, one of whom shall be a legally qualified person appointed by the Commissioner and the other shall be a Member, who shall not be a member of the Committee on Standards and Privileges, appointed by

the Speaker; and

(b) meet in private.

(6) The Commissioner—

(a) shall determine the procedures of the Panel, subject to the provisions of this Order; and

(b) may appoint counsel for the purpose of assisting the Panel.

(7) Any report that the Commissioner may have made to the Committee on Standards and Privileges in relation to the complaint before the appointment of the Panel shall be made available to the Panel by the Committee.

(8) Any Member who is the subject of the complaint under investigation shall, if he so requests, be heard by the Panel; may call witnesses; and may examine other witnesses.

(9) When the Panel has completed its proceedings—

(a) the Commissioner shall report as in paragraph (2)(e);

(b) the legal assessor shall report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have been consistent with the principles of natural justice; and

(c) the Member assessor may report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.

(10) The Commissioner shall report each year to the House on the exercise by him of his functions.

(11) The Commissioner may be dismissed only following a resolution of the House, moved for by a Member of the House of Commons Commission, after the Committee on Standards and Privileges has reported to the House that it is satisfied that the Commissioner is unfit to hold his office or unable to carry out his functions; and any such report shall include a statement of the Committee's reasons for its conclusion.

Appendix 2: Description of the Arrangements for Regulating Standards of Conduct in the House of Commons

1. Like many other aspects of the United Kingdom political system, the arrangements for regulating standards in the House of Commons have developed over time and often in response to particular events. As long ago as 1695, the House of Commons passed a resolution declaring bribery of Members a high crime and misdemeanour. For centuries thereafter, misconduct by Members was handled ad hoc and often informally as it arose (which was relatively rarely). In 1858, the House passed a Resolution prohibiting advocacy for fee or reward and in 1947 a further resolution banning Members from entering contracts or agreements which restrict their freedom to act and speak, or require them to act as a representative of outside bodies.
2. A resolution of 1974 confirmed a long-standing convention that relevant pecuniary (i.e. financial) interests should be declared in the House and its Committees, and in communications with Ministers and officials. The first Register of Members' Interests was created in 1975 (following the Poulson case). Rules about registering or declaring interests developed gradually thereafter and were first codified and substantially revised in 1992.
3. The key features of the present arrangements came into being in 1995 following recommendations by the Committee on Standards in Public Life (at the time chaired by Lord Nolan) and the Select Committee of the House on Standards in Public Life. These recommendations were for:
 - a new Code of Conduct for MPs;
 - an improved Register of Members' Interests;
 - an independent Parliamentary Commissioner for Standards;
 - a strengthened Committee on Standards and Privileges.

The first Commissioner (Sir Gordon Downey) was appointed in 1995 and a Code of Conduct for Members was approved by the House and published the following year.

Principles

4. The nature of the arrangements reflects a concern to ensure effective machinery for upholding high standards of conduct, containing a strong independent element, whilst preserving Parliament's control over its own affairs. For centuries, Parliament fought to establish its right to control its own affairs, free from interference by either the Monarch or the courts. This freedom was confirmed by Article 9 of the Bill of Rights of 1689 which provided:

“That 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.”

5. The House's right to discipline its own Members is a central element in this. As the Committee on Standards in Public Life observed in 1995 when recommending the present arrangements:

“The House collectively has a responsibility to safeguard the public interest against the possible misjudgements of individual Members, and it has the ability to do so. It also needs to reassert forcefully to the public that Members of Parliament, collectively and individually, have a sense of both the responsibilities and the dignity of the role with which they are entrusted. We believe that the House can do this itself, and that the package which we set out below will help to do so. It is a powerful and flexible

*mixture of disclosure and enforcement which will serve the public interest better than the inflexibility of statutory procedures.*³⁰

6. The system for upholding standards of conduct in Parliament is often described as one of ‘self-regulation’. This is, however, a substantial over-simplification. It is correct in the sense that the House of Commons retains the ultimate responsibility for deciding the shape of the system and for disposing of individual cases arising under it. It is incorrect, however, in so far as the decision whether to investigate a complaint, as well as a recommendation on findings, are the responsibility of an independent Commissioner. The reports of his investigations and the subsequent reports of the Committee on Standards and Privileges to the House are published. When the House needs to debate such reports, it invariably does so in public. The effectiveness of the arrangements as a whole is also open to periodic review by the independent Committee on Standards in Public Life.
7. In this context, it is worth noting that the immunity of an individual Member of Parliament from legal action in the courts is more limited than the immunity given to parliamentarians in many other legislative assemblies, being restricted to proceedings in Parliament (that is, broadly to participation in debates in the House, in Committees and other forms of proceeding). In other respects, an MP stands in the same position in relation to the law as does any other citizen.
8. Members, individually and collectively, are ultimately and regularly subject to the judgement of their fellow citizens through the ballot box. As past events have shown, this can be an effective final sanction.

The Key Elements in the System

1 The Code of Conduct

9. The Code of Conduct applies to Members in all aspects of their public life, not in their purely private and personal lives. It is relatively short, incorporating the substance of various resolutions on conduct passed by the House and the Nolan Committee’s ‘seven principles of public life’. Its purpose is “to assist Members in the discharge of their obligations to the House, their constituents and the public at large by:
 - a) Providing guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing
 - b) providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those duties.”
10. The text of the Code can be found at www.parliament.uk/pcs. In summary, it requires Members to:
 - uphold the law and the Constitution;
 - act always in the public, not their own personal interest, and to resolve at once any conflict between the two in favour of the former;
 - strengthen confidence in Parliament, not bring the House or its Members into disrepute;
 - observe the seven principles of public life, as set out in the first report of the Committee on Standards in Public Life;
 - never accept a bribe, act as a paid advocate or misuse expenses, allowances, facilities or services provided from the public purse;

³⁰ Cm 2850, paragraph 59

- observe the House’s Rules, e.g. as regards the registration and declaration of interests.

2 The Register of Members’ Interests

11. The main purpose of the Register is:

*“to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament.”*³¹

12. The appearance of an entry in the Register simply constitutes a record of a registrable interest. It implies no element of judgement on the substance of the interest. The purpose of registration is openness, to give other Members and the public the opportunity to know about interests which may be thought to influence a Member’s actions in his or her parliamentary capacity, and to make their own assessment of their significance. The Rules on registration lay down, essentially as an administrative convenience, 10 categories of interest to be registered. They also place Members under a more general obligation to keep the overall purpose of the Register in mind when registering or declaring an interest.
13. The obligation to declare relevant interests in a debate or committee proceeding is not restricted to those interests which are the subject of an entry in the Register. It also includes interests which have been held in the recent past or of which the Member has a reasonable expectation in the future, and Members are advised to declare certain non-registrable interests where relevant.
14. The Register is compiled afresh at the start of every Parliament or following a major revision of the Rules. One bound, printed edition is published every year and the text is also available on the web-site at www.parliament.uk/pcs or at the House for Members or the public to study. In addition, the Register is updated every few weeks while the House is sitting to include fresh information supplied by Members. The text of these updated editions is also published on the web-site, and is available, by appointment, for inspection in hard copy form.

3 The Parliamentary Commissioner for Standards

15. The Commissioner is the independent element in the system for regulating standards in the House of Commons. Whilst he is an officer appointed pursuant to a Resolution of the House, he is expected to act independently in discharging his responsibilities. The duties of the Commissioner are embodied in Standing Order No.150. The main duties are:
- overseeing the maintenance of the Register of Members’ Interests and the other registers of interests for Members’ staff, journalists and All-Party Groups;
 - with the Registrar of Members’ Interests, advising on the registration and declaration of interests;
 - advising the Committee on Standards and Privileges on the interpretation of the Code of Conduct;
 - monitoring the operation of the Code and registers and making recommendations to the Committee thereon;
 - receiving, investigating and reporting to the Committee on complaints against Members.

The Commissioner is appointed for a five year, non-renewable term and is not liable to dismissal except on a resolution of the House.

³¹ Select Committee on Members’ Interests, First Report, Session 1991-92, “Registration and Declaration of Financial Interests”, HC 236, paragraph 27

4 The Committee on Standards and Privileges

16. Standing Order No.149 places on the Committee on Standards and Privileges the responsibility:

- 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; and to consider any specific complaints made in relation to the registering or declaring of interests which are referred to it by the Commissioner; and
- to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to the committee's attention by the Commissioner; and to recommend any modifications to such code of conduct as may from time to time appear to be necessary.

The Committee is also responsible for considering specific matters relating to privileges referred to it by the House.

17. The Committee consists of 10 Members, five drawn from the party of government and five from the opposition parties. Its Chairman is a senior opposition Member.

Does the System Work?

18. The adequacy of the arrangements has been twice reviewed by the Committee on Standards in Public Life since they came into being. In its Sixth Report in January 2000, the Committee expressed confidence that there had been an improvement in the standards applying to Members and stated:

“We have no doubt that the establishment of [the office of Parliamentary Commissioner for Standards] has made a significant contribution to the promotion of, and public’s confidence in, standards in the House of Commons.”³²

More recently, the arrangements were the subject of further extensive scrutiny by the Committee. In its Eighth Report published in November 2002, the Committee found that:

“...standards in the House of Commons are generally high and that the overwhelming majority of Members seek to, and in practice do, uphold high standards of propriety.”³³

It also concluded that:

“...the fundamental structure of the current system for regulating standards of conduct in the House of Commons is sound...”³⁴

It made a number of recommendations designed further to strengthen the arrangements, all of which have been acted upon.

³² Cm 4557-1, paragraph 3.2

³³ Cm 5663, paragraph 2.7

³⁴ Cm 5663, paragraph 3.23

Appendix 3: The Frank Stacey Memorial Lecture, 2005

“Trust in Politicians: Standards in the House of Commons”

Introduction

I am honoured to have been invited to give this lecture in memory of Frank Stacey. At the time he published his seminal book “The British Ombudsman”, I was just graduating in politics from the University of Edinburgh. His earlier work – the influential ‘Government of Modern Britain’ – had been a set text. He was an academic name to conjure with, and his influence continues through his students and, not least, the Public Administration Committee of the Joint University Council, of which he was a distinguished chairman.

Frank Stacey was not only interested in politics and public life as a subject of academic study but believed in the desirability of active participation in that life. Without compromising his academic standards or principles, he rolled up his sleeves and became involved. Clearly one of his abiding concerns was the provision in the modern world of effective remedies for the redress of individual citizens’ grievances. His academic interest in the development of the Ombudsman system reflected his strong personal commitment to the pursuit of justice and fairness.

I am confident that, as well as recognising the potential of Ombudsmen as a means of redressing individual grievances and securing justice for those concerned, Frank would have recognised that Ombudsmen – and their contemporary analogues like Commissioners for Standards – play a deeper role as one of the mechanisms for increasing public confidence in the operation of civil society. Their task is not simply to criticise politicians or public officials but at the same time to help build confidence in the institutions they police.

Trust and confidence in politicians – or rather the alleged lack of it – was one of the key issues in the General Election earlier this year. A number of commentators have attributed declining levels of voter turnout to declining levels of this trust.

As I shall explain later, the issue of public trust in politics and politicians goes, in my view, far deeper than issues which are capable of being tackled by the Parliamentary Commissioner for Standards. But there is no doubt that concerns about corruption, or “sleaze” as the tabloid press describes it, were at the heart of the origin of my role.

These concerns focussed in the “Cash for Questions” affair in the early to mid 1990s. The arrangements of which my role forms part were a typically British response to those concerns. In the first part of my remarks this evening, I want (with apologies to any of you who may already be familiar with them) to sketch out the origin and essential features of those arrangements.

Secondly, I shall describe my impressions of the arrangements when I took up office in March 2002 and what I have since been doing to try to strengthen them.

Finally, I shall return to the issue of public trust and ask how effective the arrangements have been in improving standards and encouraging public trust in politicians and the political process.

Origin and Principles

I said a moment ago that the arrangements of which my office is part constituted a typically British response to the problem of “sleaze”. They emerged from the equivalent of a Departmental Committee or Royal Commission – in this case, the Committee on Standards in Public Life led by its first chairman, Lord Nolan. They were built in part on pre-existing Parliamentary machinery. They were implemented by non-statutory

means. Like many other elements in British public life, the arrangements came into being in response to a specific set of events, were built pragmatically on existing institutions, and are still evolving.

Prior to 1995, controls over the conduct of Members of Parliament were largely informal. The House of Commons was a club (for the most part, a gentleman's club). The first Register of Members' Interests had come into being after the Poulson affair some twenty years earlier but the rules on what and when to register had not been codified and publicised until 1992.

The arrangements introduced following the recommendations of Lord Nolan's Committee and those made in a subsequent report by the then Select Committee on Members' Interests, can best be described as 'self-regulation with a strong independent element'. 'Self regulation' because the House of Commons ultimately sits in judgement on the conduct of its own Members. "With a strong independent element" because a key constituent of the arrangements is the appointment of a Commissioner required to bring his or her independent judgement to bear, not only on whether and how individual complaints are to be investigated but on whether the conduct complained of is indeed a breach of the required standards.

Self-regulation has its critics, in the Parliamentary as in other fields. In the case of the House of Commons it needs primarily to be understood, not as an expression of Parliamentary self-interest but of the, in my view understandable, reluctance of MPs to allow the courts to interfere in the regulation of Parliament's own internal affairs. Standing behind this is the concept of the separation of powers, Article 9 of the Bill of Rights of 1689 and the doctrine of "exclusive cognisance". I would have to concede that scepticism about lawyers and an aversion to the introduction of overly legalistic processes into the regulation of Members' conduct is another factor.

The arrangements should also be viewed in the context of the very limited immunity given MPs against criminal and civil action in the courts, an immunity which is restricted purely to things said or done by them during proceedings in Parliament.

What then is the nature of the Commons standards arrangements? There are 4 main elements:

A Code of Conduct

The Code – which has recently been revised – applies to Members in all aspects of their public life, not in their purely private and personal lives. Its purpose is to provide guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing to provide the openness and accountability necessary to reinforce public confidence in the way they perform those duties.

The Code consists of 3 broad statements of public duty, accompanied by 8 specific rules of conduct. It also incorporates the Nolan Committee's 'Seven principles of public life' – honesty, integrity, and so on – principles which are to be taken into consideration when any complaint is received of breaches of the other provisions of the Code.

As you would expect, interpreting the Code and applying it to individual sets of circumstances is not always easy. Therein lies one of the challenges of my role.

The Register of Members' Interests

The main purpose of the Register is "to provide information of any pecuniary or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament."

Note that the test for registration is not what the Member thinks might influence them but what "might reasonably be thought by others" to influence them. One task of the Commissioner is to be the reasonable outsider in applying this test.

Registration does not imply wrongdoing. Its object is to promote openness, and through openness, accountability.

As well as the obligation on Members to register their interests, they are obliged to declare them when relevant during debates and other proceedings in the House. In fact the obligation to declare an interest is in some respects wider than the obligation to register, embracing, for example, relevant past and future as well as present interests.

The Parliamentary Commissioner for Standards

The Commissioner provides the independent element in the system. His or her role includes advising individual MPs and the House on matters of conduct, and considering and investigating complaints.

Complaints can come from other Members of the House or from any member of the public. The number tends to fluctuate from year to year, and can be heavily influenced by such factors as the approach of a general election or publicity surrounding the actions of a particularly prominent politician.

Many of the complaints I receive come from constituents disgruntled about the way their MP has handled their own case. Complaints of this nature, however, are outside my remit. I will not bore you with a description of the process for handling complaints but will be happy to answer questions if anyone wishes to explore this.

The Commissioner is appointed by a Resolution of the House, on the recommendation of the House of Commons Commission and following a process of competitive interview which, on the last occasion, was externally monitored. The appointment is now for a 5 year, non-renewable term.

The Committee on Standards and Privileges

Is the final element in the arrangements. It oversees the work of the Commissioner and advises the House on matters within its remit. In respect of complaints, it assesses guilt or innocence, on the basis of the reports prepared by the Commissioner, and advises the House on the appropriate penalty.

Following recommendations by the Committee on Standards in Public Life in its Eighth Report (Cm 5663), the membership of the Committee is now evenly divided between Government and Opposition back benchers. Parliamentary Private Secretaries are no longer members and the Chairman is a distinguished, senior, Opposition back-bencher, currently Sir George Young.

My Approach to the Role

Having outlined the nature and some of the rationale of the system for regulating MPs' conduct, I turn to describe how I have approached the role of Parliamentary Commissioner since my appointment in March 2002.

One of the principal challenges facing any Standards Commissioner -and one principal requirement if they are to be effective in the post - is to retain the confidence of both the public and MPs in the way they discharge their role. The public must be confident of the Commissioner's independence and integrity, and their willingness to hold erring Members to account. MPs must also believe in the Commissioner's integrity, and in the Commissioner's capacity to understand the particular character of the House of Commons and to treat them fairly, confidentially and with good judgement. There is no doubt that confidence in both groups had been weakened by the circumstances surrounding my predecessor, Elizabeth Filkin's departure from office.

My immediate aim on arrival in post was to emphasise that I was not some tame successor to Elizabeth but my own man. I also made clear - a message more for the politicians - that I would not countenance the abuse of the complaints process through attempts to pursue trivial complaints in a vindictive or partisan fashion.

Throughout, I have sought to adopt an approach which is strategic and proportionate: strategic in the sense that it is proactive and focuses on the key issues; proportionate in that both policy matters and cases are handled in a manner appropriate to the intrinsic weight of the issues at stake.

Years ago, I learned that it is a salutary discipline to write down your initial impressions after your first few months in a job and to review them from time to time, as the sharpness and clarity of your initial insights inevitably begin to fade.

In preparing this talk I looked again at the list I produced after my first few months as Commissioner. Here are a few of the impressions I wrote down.

- Public and press perceptions of the system are ‘case driven’. There is a need for a strategic approach to the operation of the system as a whole.
- It is essential to build Member as well as public confidence. More emphasis is needed on advice and education.
- The Code of Conduct is a bit of a rag-bag. It is hardly a coherent statement of what we expect of Members.
- The rules on registering interests are complex, although simpler after changes in May 2002 than they were.
- Procedures need spelling out clearly, so that all concerned are aware of them from the outset.

Flowing from that analysis, I have tried to:

- Help strengthen the machinery for sustaining high standards among Members.
- Put more emphasis on preventing problems before they arise – with the aim of developing a culture of compliance with the House’s rules – rather than simply picking up the pieces afterwards.
- Review the Code of Conduct, and clarify and codify the procedures for enforcing it.
- Establish clear ground rules for informing the press and the public about how the system operates in general and about the handling of individual cases, and agree a clear public information policy.

Strengthening the System

In its review of Standards of Conduct in the Commons published in November 2002 the independent Committee on Standards in Public Life said:

“We believe, along with many of our witnesses, that the fundamental structure of the current system for regulating standards of conduct in the House of Commons is sound. However, it requires some considerable strengthening of the system’s components to meet the areas of concern described ... and to provide effective regulation of standards.” Cm 5663, para. 3.23.

The recommendations of the Committee - to which I was among those giving evidence - focussed primarily on buttressing the independence of the Commissioner and underpinning the impartial and authoritative role of the Committee on Standards and Privileges. The House responded positively to these recommendations and they are now reflected in the arrangements I outlined to you earlier. They include the even balance between Government and Opposition on the Select Committee, the exclusion of PPSs from membership, the Committee’s chairmanship by a senior Opposition backbencher, and the fixed term of appointment for the Commissioner.

Emphasising Prevention

With the approval of the Committee on Standards and Privileges, my colleague the Registrar of Members’ Interests and I have produced a series of occasional advice notes on particular topics, supplementing the material already in the published Rules. We have arranged comprehensive briefings for Members and their staff, particularly those Members newly elected to the House this year. And we have occasionally attended, by invitation, meetings of the parliamentary parties to speak on particular topics.

We have also continued the extensive provision of advice to individual Members on their own particular circumstances.

The Committee and I have also tried to identify lessons to be drawn from individual cases and to use our reports on those cases as a means of encouraging sensible improvement of the House's regulatory arrangements, eg in respect of some aspects of Members' allowances.

Reviewing the Code

A review of the Code was completed this year and the House has accepted its outcome. I believe that the resulting document is more coherent, better presented and more user-friendly. The procedures for handling complaints – including complaints of a frivolous or vexatious nature – have been written up and made available for all to access on the world-wide web.

Public Information Policy

The public information policy agreed with the Committee on Standards and Privileges is also available on the web. It may be summed up as openness about the way the system operates, combined with confidentiality about the handling of individual cases during the investigation and deliberation phase. Of course, once the Committee reports to the House, all the material it has considered, along with my recommendations and the Committee's own deliberations, are published for all to see.

More generally, I hope that knowledge about the way the system operates has been assisted by my publication of an annual report, which includes information about policy and procedural developments and statistics on the number of complaints handled.

Taken together, I believe that these and other changes I have not time to mention represent a real strengthening of the Commons standards arrangements. It was encouraging to see Peter Riddell, the respected Chief Political Commentator of the Times, say earlier this year in a review of the first ten years of existence of the Committee on Standards in Public Life:

“The revamped system of Commons self-regulation and disclosure is now operating pretty well. . .”
(Committee on Standards in Public Life, Annual Report, 2004)

Any improvement there may have been is the result of concerted effort by the Committee on Standards and Privileges, the authorities and senior officers as well as the Members of the House, with the benefit of the assistance of outside commentators including the Committee on Standards in Public Life.

Public Confidence – are the arrangements working?

Is the system working? Is the evidence of 'sleaze' in the House diminishing? While the number of cases of complaint fluctuates, indications overall are that the number of Members who are the subject of a complaint within the scope of the Code is diminishing. There is no evidence of widespread graft and corruption. Such cases of misconduct as emerge appear to be aberrations, often the result of lack of sufficient care or forethought rather than deliberate contravention of the rules.

Of course, we must never be complacent. MPs are as much part of fallen humanity as the rest of us. From time to time, there will be instances of misconduct. On any international comparison, however, standards in the House of Commons remain high. As the Committee on Standards in Public Life put it in its Eighth Report:

“We endorse the view that standards in the House of Commons are generally high, and that the overwhelming majority of Members seek to and in practice do, uphold high standards of propriety.” (Cm 5663, paragraph 2.7)

Have the arrangements I have described done anything to bolster public confidence that sleaze is being tackled effectively? There is some collateral evidence that they have in the results of a survey of public attitudes towards conduct in public life, published by the Committee on Standards in Public Life in September last year.

The survey revealed that ‘spin’ has replaced ‘sleaze’ as a major focus of public concern. Few thought that MPs take bribes or base their decisions on self interest. Only 11% rated standards in public life as low or very low.

The survey also disclosed that the public hold comprehensive and sophisticated, but sometimes apparently contradictory views on standards issues. They tend to draw a clear distinction between their local MP (whom they may know) and MPs in general. Asked whether they generally trusted their local MP to tell the truth, 47% of those surveyed said yes, 45% said no, a net trust rating of +2%. Asked the same question in relation to MPs in general, the figures were 27% and 67%, a net trust rating of -40%. I wonder whether part of what is at work here is the general human tendency to stereotype people as a group, whilst frequently making exceptions of those we know within that group.

Finally the survey confirmed the powerful role of the media in influencing public attitudes on these issues – although it also found that journalists on tabloid newspapers rank well below MPs in the list of those who the public trust.

Strengthening Trust in Politicians

Even so a net trust rating of +2% in your local Member (which incidentally was about the same as that reported for television news journalists) is hardly stunning. There is clearly more work to be done if public confidence in MPs’ conduct is to be improved.

Part of the answer, the research suggests, may lie in informing the public more about what is done to uphold standards. But it seems clear that we need to look beyond the conduct of politicians alone, or the distribution of more information about how misconduct is handled, to find the reasons fuelling the present lack of public trust in those active in political life.

Part of the explanation may lie in the lack of appreciation or understanding of the role of politics itself in society. Part may reside in doubt about the effectiveness of our political institutions. Part may lie in the cynicism surrounding all institutions – from the monarchy and the Church downwards. Part may lie in the individualistic, consumerist nature of contemporary society. Part may rest with a media which believes that truth only emerges from confrontation and which – together, it has to be said, with many in politics – is too ready to reduce complex issues to misleading banner headlines and glib sound-bites.

How do we recover trust? By recognising that it has to be both earned and granted. Politicians have to be more ready to give straight answers, to say it how it is, to match words with actions, to admit error. Aided and prodded by people like me – and by a vigilant press – they have to aspire to and maintain high standards of conduct.

But we, the public have to recognise our responsibility too. Our responsibility to recognise that, like any other group of people, politicians deserve to be assessed on their merits and not simply pilloried as a class. Our responsibility when making that assessment to recognise that – like, for example, running a business or a university – government mostly involves the exercise of judgement in making difficult decisions in complex circumstances. Our responsibility also to recognise that, between elections, politicians need to be given space to make those judgements and, yes, even occasionally to make mistakes.

Mr Chairman, I believe that Frank Stacey would have recognised that such reciprocal sets of obligations and responsibilities are at the heart of civil society itself. Ombudsmen, Standards Commissioners and the like can encourage, stimulate and assist the adoption of good standards but they cannot will them into being. William Gladstone said that “the British constitution presumes on the good will of everyone in it.” That remains as true today as it was in the Victorian era. It is the responsibility of all of us – politicians, academics, media and public – to safeguard the continuation of that good will into the future.