



House of Commons
Committee on
Standards and Privileges

**Conduct of
Mr John Horam**

Second Report of Session 2005–06

*Report and Appendices,
together with formal minutes*

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Committee on Standards and Privileges

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

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Publications

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

Committee staff

The current staff of the Committee are Dr Christopher Ward (Clerk), Miss Jenny McCullough (Second Clerk) and Mrs Lisa Stead (Secretary).

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Conduct of Mr John Horam

Introduction

1. The Parliamentary Commissioner for Standards has submitted a memorandum to us relating to complaints made in February 2005, in the last Parliament, against Mr Adrian Flook, then the Member for Taunton, and Mr John Horam, the Member for Orpington. The essence of both complaints, which were made in a single letter, was that both Members had failed to register as sponsorship¹ certain donations received by their respective Constituency Associations. The Commissioner's memorandum is reproduced as Appendix 1 to this report.

2. The Commissioner has reported that his preliminary investigation revealed no basis for the donations that were the subject of the complaint against Mr Flook to be included in his Register entry. The Commissioner therefore dismissed the complaint against him.

3. Mr Horam, having been shown a copy of the Commissioner's memorandum, has himself submitted a memorandum to us. This is reproduced as Appendix 2 to this report.

The complaint against Mr Horam

4. As regards the donations to the Orpington Conservative Association, there is no dispute over the basic facts: Mr Horam approached Lord Ashcroft's representative to solicit both donations and, having received them, reported them to the Electoral Commission, as he was required to do as a 'regulated donee' under the Political Parties, Elections and Referendums Act 2000. He did not, however, seek to add either of them to his entry in the Register of Members' Interests under Category 4(a) (Sponsorships). His failure also to include them in his Register entry as sponsorship was, he maintains, inadvertent; he told the Commissioner that he thought he had discharged his obligations by making the donations public by reporting them to the Electoral Commission.

5. The Commissioner met Mr Horam at his own request on 5 April. In the light of the discussion at that meeting, the Commissioner, reasonably in our view, accepted that Mr Horam's failure to register was inadvertent so, given that Mr Horam had accepted that he should have registered these donations, offered to exercise his discretion to resolve the matter under the 'rectification procedure', provided that Mr Horam apologised and that an entry was now included in the Register in an appropriate manner.

6. On 7 April, the day on which the last Parliament was prorogued, Mr Horam informed the Registrar of Members' Interests that while he was prepared to apologise in whatever form was required and to make the necessary correction to his Register entry, he believed it would be better if the Commissioner reported on the complaint to the Committee on Standards and Privileges rather than disposed of it by the use of the rectification procedure:

1 Under Category 4(a).

based on discussions with colleagues, he believed that there was confusion between the respective requirements of the House and of the Electoral Commission, and a report from the Committee might usefully clarify the position.

7. As Mr Horam declined to use the rectification procedure, the Commissioner has submitted a formal report to us, in which he recommends that the complaint against Mr Horam be upheld. **We agree with the Commissioner that Mr Horam, by his own admission, was in breach of his obligations under the Code by failing to include in his entry in the Register of Members' Interests under Category 4(a) (Sponsorships) the two donations to the Orpington Conservative Association that he personally solicited from Bearwood Corporate Services.**

8. Mr Horam has apologised for his oversight. We have asked the Commissioner to ensure that the relevant entry in the next printed edition of the Register appears in a distinctive form, a requirement that in any event would have been part of the rectification procedure.

The wider issues

Adequacy of the existing guidance to Members

9. In his correspondence and discussions with the Commissioner, Mr Horam indicated his belief that there was confusion over Members' obligations in respect of donations they received arising from the dual requirements of the House and the Electoral Commission. While we, like the Commissioner, accept that the issue of the duplication of reporting requirements (to which we return below) is a real one, we believe that the requirement of the House that donations to constituency party organisations which are personally solicited by Members be registered as sponsorships under Category 4(a) is clearly set out in paragraph 26 of the Guide to the Rules, and helpfully reiterated in Advice Note 5, issued by the Registrar of Members' Interests in November 2004. **What lies at the root of this case in our view is, as the Commissioner states, Mr Horam's own failure fully to study the existing guidance, and to grasp its significance, rather than any underlying inadequacy in the guidance itself.**

Duplication of reporting requirements

10. As we say above, the issue of the duplication of reporting requirements is a real one. We recognise that the present requirements for Members to report certain donations, in cash and in kind, both to the Electoral Commission and to record them in their Register entries², are burdensome. We therefore welcome the willingness of the Commissioner to work with the Electoral Commission and, where appropriate, others, to seek a way of resolving the issue and, in the meantime to continue to work both to improve the operation of the existing arrangements and to ensure that Members are fully apprised of

2 Up to 31 March 2005, 13 Members had reported cash donations to the Electoral Commission since the coming into effect, from 1 January 2001, of the statutory regime relating to regulated donees, and 22 had reported visits. In addition, over 200 Members had reported non-cash donations, in most cases of a particular benefit which is unlikely to recur and does not fall to be included in their Register entries, as it was offered to all Members.

their obligations to both the House and to the Electoral Commission. In this respect, the inclusion by the Commissioner in the folders entitled 'Standards in the House of Commons' which he has supplied to all Members, most recently in May 2005, of material supplied by the Electoral Commission is helpful.

11. It would in our view be better though if a single system, operating under the authority of the Commissioner, could be devised to replace the present arrangements, which would enable Members to discharge their obligations in relation to making donations public through a single declaration. This would in effect create the 'one-stop shop' which Mr Horam has suggested. **We recommend that the Commissioner, the Electoral Commission and the Government work together to bring forward proposals for such a system with a view to it being implemented as quickly as possible. The forthcoming Electoral Administration Bill may provide a suitable vehicle and we would want to play a part in developing such proposals.**

Appendix 1: Memorandum from the Parliamentary Commissioner for Standards

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Complaints against Mr Adrian Flook and Mr John Horam

The complaints

1. On 23 February 2005, in the last Parliament, I received by fax a letter from Mr Dan Whittle formally requesting me to investigate the entries in the Register of Members' Interests relating to Mr Adrian Flook (then the Member for Taunton) and Mr John Horam (the Member for Orpington). The letter referred to press coverage of donations made by Lord Ashcroft through Bearwood Corporate Services Limited (subsequently referred to as 'Bearwood') to various Conservative Party candidates in seats expected to be marginal at the General Election, including those of Mr Flook and Mr Horam. Mr Whittle said that the press reports suggested that:

“donations from Bearwood only came after an interview or meeting with the recipient of any possible donation. If this were true in the case of the two MPs concerned then I feel it must surely fall within section 4(a) of the Register.”

Neither Member had, however, registered any such donation.

2. On receipt of the fax, I asked Mr Whittle to send me an original signed copy of his complaints, together with the evidence he wished to offer in support of them. The text of the signed letter of complaint I subsequently received from Mr Whittle is at WE 1. Mr Whittle also sent me copies of a number of press articles relating to his complaints, together with a table compiled from information in the register of donations published by the Electoral Commission. This showed that Mr Flook's constituency association had received a total of £8,387.50 from Bearwood in 3 donations, on 19 April, 12 August and 1 November 2004 respectively. Mr Horam's association had received a total of £6,094.55 in 2 donations on 3 July and 30 November 2004.

Relevant provisions of the House's Code of Conduct and Rules

3. The Code of Conduct for Members approved by the House includes a provision that:

“Members shall fulfill conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.”

4. The rules relating to the registration of interests by Members are set out in the Guide to the Rules on the Conduct of Members, the current edition of which was approved by the House on 14 May 2002.¹ Category 4 of the Rules provides that Members shall register:

¹ HC 841, Session 2001–02

“Sponsorships:

(a) Any donation received by a Member’s constituency association which is linked either to candidacy at an election or to membership of the House; and

(b) any other form of financial or material support as a Member of Parliament, amounting to more than £1,000 from a single source, whether as a single donation or as multiple donations of more than £200 during the course of the calendar year.”.

5. Paragraph 26 of the Guide to the Rules says in relation to Category 4 (a):

“Support should be regarded as ‘linked’ directly to a Member’s candidacy or membership of the House if it is expressly tied to the Member by name, eg if it is a contribution to the Member’s fighting fund or a donation which has been solicited or encouraged by the Member. Financial contributions to constituency associations which are not linked to a Member’s candidacy or membership of the House do not have to be registered.”.

6. On 13 December 2004, with the approval of the Committee on Standards and Privileges, I circulated to all Members of the House in expectation of the General Election a note by the Registrar of Members’ Interests (Advice Note 5) containing advice on the registration of sponsorship under Category 4 of the Rules. This advice amplified the guidance set out above, offering practical advice on the types of donation which needed to be registered and those which did not. Paragraph 7 of the note specifically referred back to paragraph 26 of the Guide, before going on to give other examples of when financial support might sensibly be regarded as being linked directly to a Member’s candidacy or membership of the House (and thus be regarded as registrable).

My inquiries

Introduction

7. Having received Mr Whittle’s material in support of his complaint, I wrote on 10 March to Mr Flook and Mr Horam inviting their comments. A copy of my letter to Mr Horam is at WE 2. I wrote to Mr Flook in similar terms. With my letter I enclosed a copy of articles which had appeared in the Mail on Sunday on 20 February and in the Guardian on 23 February which suggested that Lord Ashcroft had picked and interviewed those Members and prospective candidates to whom (or to whose local associations) he had made donations. I also identified other press reports (for example, in the Independent of 23 February) which suggested that Lord Ashcroft had given money to candidates with business plans that had impressed him.² I invited the two Members concerned to confirm whether their associations had received a donation of more than £1,000 directly or

² A search of the Electoral Commission’s register of donations to the Conservative Party on 5 April 2005 (which then listed all donations reported as made up to 31 December 2004) showed that, in respect of 2004, 43 separate donations by Bearwood to constituency associations had been registered. In all cases other than Taunton and Orpington, the constituency did not then have a sitting Conservative Member.

indirectly from Lord Ashcroft and, if so, whether they had been in any way personally involved in its solicitation or encouragement.

Complaint against Mr Flook

8. Mr Flook replied on 24 March. A copy of his response is at WE 3. Mr Flook confirmed that his local association had received donations totaling £8,387.50 from Lord Ashcroft. However, he himself had played no part in soliciting or encouraging the donation. His local constituency agent had told Mr Flook that he was going to apply for support on behalf of the association. Mr Flook says that he felt in no position either to encourage or discourage an approach to Lord Ashcroft but he played no part in any such approach. Each request for funding, and the business plan in support, was prepared and submitted by the agent. Mr Flook was neither privy to the plan nor to any of the requests for donations.

9. Mr Flook says that he has never met Lord Ashcroft or communicated with him. He points out that the donations received by his association were all registered with the Electoral Commission, as required under the Political Parties, Elections and Referendums Act 2000, so that information about them was in the public domain.

10. It is clear from Mr Flook's explanation that he personally played no part in soliciting Bearwood's donations to the Taunton Conservative Association. Consequently, there was no requirement for him to include them in his entry in the Register of Members' Interests. I have therefore dismissed Mr Whittle's complaint against him.

Complaint against Mr Horam

11. Mr Horam replied on 29 March. The text of his response is at WE 4. Unlike Mr Flook's association, Mr Horam's had no agent. Mr Horam himself therefore made the initial inquiry of Lord Ashcroft's representative, Mr Stephen Gilbert, about the availability of money and he subsequently wrote twice to Mr Gilbert, successfully seeking a donation on each occasion.

12. Mr Horam points out that details of the donations received by his association were properly reported to the Electoral Commission and thus were public knowledge. Unlike Mr Flook, Mr Horam has met Lord Ashcroft, but says that he only did so in January 2005, after the two donations had been made.

13. Mr Horam's letter continues:

"I was aware of category 4 (Sponsorships) in the Register of Interests, particularly subsection (a), but considered that since the donation from Lord Ashcroft was entirely because Orpington was a marginal seat, and had nothing to do with the fact that I might be the candidate at the next election or that I was an MP, it was not necessary to register it under my personal interests.

You have drawn my attention to Advice Note 5, which came out last November. I must confess that I did not read this when it came out because I assumed the situation would remain unchanged. However the wording used here includes the phrase "or a donation

which has been solicited or encouraged by the Member.” This seems to me to significantly extend what should be included, and certainly it could be argued that I at least encouraged Lord Ashcroft to make a donation to the Orpington Conservative Association.

If this is correct I should have added the Ashcroft donation retrospectively to my list of interests and if this is the judgement I will certainly do so.”

Meeting with Mr Horam

14. Mr Horam concluded his letter by saying that certain aspects of the situation puzzled him and he would be glad of an opportunity to discuss them with me. The Registrar of Members’ Interests and I accordingly met him on 5 April. An agreed note of that meeting is at WE 5.

15. Mr Horam said that his failure to register the donations had been inadvertent. He had not tried or intended to disguise receipt of them, indeed he had made them public by reporting them to the Electoral Commission. He thought he had discharged his obligations by doing this. Since he was unlikely to be influenced by Lord Ashcroft’s donations and they were already on the public record, he was not clear what the point was of referring to them in the Register of Members’ Interests.

16. The Registrar and I explained to Mr Horam that the Register is designed to provide information about a Member’s financial interests which might reasonably be thought by others to influence him (or her) in carrying out his (or her) Parliamentary duties.³ The purpose of registration is openness. Registration of an interest does not imply any wrong doing. In cases such as this there is duplication between the statutory requirement to register donations with the Electoral Commission and those of the House. In order to ease the regulatory burden on Members in such circumstances, the House has taken steps, wherever possible, to align its thresholds for registration with those of the Commission.⁴

17. We also pointed out that (contrary to the implication in Mr Horam’s letter of 29 March) Advice Note 5 had not extended the obligations on Members in respect of registering sponsorships; the relevant requirements were already clearly set out in paragraph 26 of the Guide to the Rules.

18. At the meeting I indicated to Mr Horam that I believed that he was in breach of the Code of Conduct by not having declared in the Register of Members’ Interests the donations to his association he had personally solicited from Bearwood. I also stated that the House had given me discretion to deal with breaches of the rules on registration other than through a formal report to the Committee when the interest involved was minor or the failure inadvertent, and provided that the Member concerned accepted that they had been in breach and took such steps to rectify the matter as I thought appropriate (the

3 See paragraph 9 of the Guide to the Rules relating to the Conduct of Members (HC 841, Session 2001–02)

4 The relevant Electoral Commission thresholds are prescribed in or by virtue of provisions of the Political Parties, Elections and Referendums Act 2000.

‘rectification procedure’).⁵ I informed Mr Horam that I believed that it would be appropriate to exercise the discretion given me in this case, provided that he apologised to the House in the usual way and that an entry was now included in an appropriate manner in the Register.

19. On 7 April, the day that Parliament was prorogued, Mr Horam told the Registrar that while he was prepared to apologise in whatever form was required and to make the necessary correction to his Register entry, he believed it would be better if I were to report formally to the Committee rather than invoke the rectification procedure. He had been talking to colleagues and believed that there was confusion between the requirements of the House and those of the Electoral Commission. A report by the Committee might helpfully clarify the position.

20. I therefore informed Mr Whittle that it had not proved possible for me to complete proceedings in relation to his complaint before Parliament had been dissolved for the General Election, and that I would pick the matter up again after the State Opening of the new Parliament.

21. Immediately following the State Opening of the present Parliament, I sent Mr Horam a draft of the factual sections of my report to the Committee and invited his comments. I also took the opportunity to ask him to clarify what he had had in mind when he had referred to confusion among Parliamentary colleagues between the requirements of the House and those of the Electoral Commission.

22. Mr Horam replied on 9 June: the text of his letter is at WE 6. Mr Horam commented in this:

“I think the main confusion arises from the fact that once a donation to a constituency organisation of this kind has been registered with the Electoral Commission, Members may well believe that they have done all that is required, since this does achieve the openness which, as you say, is the object of registration. It was certainly the case that neither I, nor Mr Flook, nor the Compliance Officer of the Conservative Party were aware that we had to make this double entry, and my general impression is that we are not unique in this respect.”

In the light of his concern to avoid duplication and to minimize the regulatory burden on Members, Mr Horam went on to suggest that consideration be given to my office “becoming a one-stop shop for the registration of Members’ Interests, with the facts being automatically transferred to the Electoral Commission so that they could register them as well, if appropriate”. I return to this suggestion in the concluding paragraph of my report.

23. Regarding the substance of the present complaint, Mr Horam said:

“Let me also reiterate the fact that I accept that I breached the Code of Conduct in not also recording the donation in the Register of Interests [as well as with the Electoral

5 See Standing Order No 150(3).

Commission] and that I am very willing to apologise and set the matter straight in the appropriate way.”.

Findings of fact

24. During 2004, Mr Horam’s constituency association received donations from Lord Ashcroft through Bearwood totaling £6,094.55. Mr Horam personally inquired of Lord Ashcroft’s agent in this matter, Mr Stephen Gilbert, about the availability of funding and subsequently prepared and submitted two successful applications for donations. He met Lord Ashcroft, but only after the two donations had been made to his association. Neither of these donations was included in the Register of Members’ Interests. Both were, however, reported to the Electoral Commission and, by that means, information that they had been made was in the public domain.

Conclusions

25. It is clear that the donations made by Bearwood to the Taunton and Orpington Conservative Associations were part of a wider campaign of support by Lord Ashcroft for Conservative candidates in marginal constituencies.

26. The House’s rules on the registration of donations to constituency associations require registration where the donation is linked either to a Member’s candidacy at an election or to membership of the House. As Advice Note 5 reiterates, at the heart of this requirement (and of the rules on the registration of interests as a whole) is the belief that there should be transparency among Members and between Members and the public in respect of the financial interests of, and material benefits received by Members which might reasonably be thought by others to influence them in carrying out their parliamentary duties.

27. Significant financial donations to a local party personally solicited by the Member clearly fall into this category. Paragraph 26 of the Guide to the Rules (the essence of which is repeated in the Advice Note) says that support should be regarded as ‘linked’ “if it is expressly tied to the Member by name, eg if it is ... a donation which has been solicited or encouraged by the Member”. However, in order for the requirement to register a donation under category 4(a) to be triggered, there must be some clear and personal linkage between the Member and the donation. Incidental involvement is not enough.

28. Mr Horam applied twice personally for financial support from Bearwood on behalf of his constituency association, after making inquiries to see if such support might be available. Mr Horam agrees that he solicited the donations personally and that he should therefore have included them in his entry in the Register of Members’ Interests.

29. Mr Horam says that his failure to register the donations in the Register of Members’ Interests was inadvertent. The donations were reported to the Electoral Commission through the Compliance Officer at Conservative Central Office. Information about them was therefore in the public domain. I accept that this is inconsistent with any suggestion of an attempt on Mr Horam’s part to cover up their receipt.

30. At the same time, Members are responsible for ensuring that they comply with the House’s rules on the registration and declaration of interests, which are clearly and

comprehensively set out in the Guide to the Rules. I am disappointed that Mr Horam, on his own admission, failed to read Advice Note 5 and, although clearly aware of the requirement to register sponsorships, appears not to have grasped the significance in this case of the guidance offered in paragraph 26 of the Guide to the Rules.

31. Whilst information about the donations was in the public domain through the Electoral Commission, the manner in which this is held by the Commission reveals their existence and the identity of the donor, but nothing of Mr Horam's part in securing them. Appropriate entries in the House's Register would have made his part in this clear.

32. Although the total of the donations received by Mr Horam's association was significant, there has clearly been no attempt to deceive. I accept Mr Horam's contention that his failure to observe the House's rules was inadvertent. He has acknowledged that he breached his obligations under the Code and has expressed his readiness to apologise for this. In all the circumstances, I therefore thought it appropriate, as I have previously indicated, to exercise the discretion given me by the House to deal with this matter under the rectification procedure.

33. Mr Horam declined to join in this process, however, for the reasons set out in paragraph 19 above. I must therefore reach a formal conclusion on the complaint against him.

34. I am satisfied that Mr Horam's obligations under the Code were clear. By his own admission he was in breach of them. Although he has correctly pointed to some duplication in the requirements of the House, on the one hand, and of the Electoral Commission, on the other, Mr Horam has not advanced any arguments which, in my opinion, demonstrate any confusion between those requirements such as would justify his failure to record in his entry in the Register of Members' Interests the donations to his constituency association by Bearwood. **I therefore recommend that Mr Whittle's complaint against Mr Horam be upheld.**

35. I recognise that the issue of duplication of reporting requirements raised by Mr Horam is a real one. It is not simply an issue to do with assisting the convenience of Members (although keeping the burden of regulation to the necessary minimum should be an objective of all concerned) but also impacts on the credibility of the regulatory system and on its effectiveness from the point of view of the public. It is, I know, a matter of which the Electoral Commission is already seized and I shall continue to work with the Commission, and where appropriate others, to seek a way of resolving it. Both the Electoral Commission and I anticipate at present that a solution will include a requirement for primary legislation, and this is likely to be a key factor influencing progress. I shall also continue to work with the Commission to improve, wherever possible, the operation of the existing arrangements and to ensure that Members are fully apprised of their obligations to both the Commission and the House.

14 July 2005

Sir Philip Mawer

Written evidence received by the Parliamentary Commissioner for Standards

1. Letter to the Commissioner from Mr Dan Whittle

I am writing to make a formal request for an investigation of the entries in the Register of Members' Interests for Adrian Flook MP and John Horam MP.

As you may have seen there has been substantial press coverage of the donations of Bearwood Corporate Services, a vehicle of Lord Ashcroft, to various Conservative Party candidates and the two MPs who are the subject of my request.

Press reports have repeatedly suggested that donations from Bearwood only come after an interview or meeting with the recipient of any possible donation. If this were true in the case of the two MPs concerned then I feel it must surely fall within section 4(a) of the register.

Neither MP has registered any of the donations. I understand they claim this is because these are simple donations to their association and nothing to do with them personally. However, given the reported process involved in securing the donation this seems seriously open to question.

23 February 2005

Dan Whittle

2. Letter to Mr John Horam MP from the Commissioner

Complaint by Mr D Whittle

I enclose a copy of a letter I have received from a Mr Dan Whittle in which he complains that you have failed to register a donation you or your constituency association have received from Lord Ashcroft through his company Bearwood Corporate Services.⁶

As you will know, Members are required to register under category 4 (Sponsorships) of the Register of Members' Interests:

- a) donations of more than £1,000 received by their constituency party organisation which are linked either to their candidacy at an election or to their membership of the House; and
- b) any other form of financial or material support above £1,000 received as a Member of Parliament from a single source.

In both cases multiple donations of more than £200 are registrable if they total more than £1,000 in a calendar year. Such donations must be registered within 28 days of their receipt.

The relevant provisions can be found in paragraphs 25–27 of the Guide to the Rules on the Conduct of Members. Members' obligations in this respect were the subject of Standards Advice Note 5, which was circulated to all Members by my office at the end of last year. Failure to observe these obligations is, of course, a breach of the House's Code of Conduct.

In his letter, Mr Whittle refers to press reports which suggest that you or your constituency association have received a registrable donation from Lord Ashcroft through his company Bearwood Corporate Services. I

enclose a copy of articles which appeared in the Mail on Sunday on 20 February and in the Guardian on 23 February, in which it is alleged that you or your association have received the sum of £6,094 from Lord Ashcroft.⁷ Also enclosed is a copy of a table which Mr Whittle says he compiled from the Electoral Commission's register of donations which purports to indicate the total amount donated and the dates on which the donations were paid.⁸

As Advice Note 5 makes clear, donations to constituency party organisations have to be registered if there is some clear and personal linkage between the Member and the donation. The Mail on Sunday and the Guardian reports suggest that Lord Ashcroft has picked and interviewed those to whom (or to whose local organisations) he has made donations. Other press reports (e.g. in the Independent of 23 February) suggest that Lord Ashcroft has given money to candidates with business plans that had impressed him.

I should be grateful if you will give me your response to Mr Whittle's complaint. It would be helpful if you would say in this context whether you or your constituency party organisation have received a donation of more than £1,000 directly or indirectly from Lord Ashcroft. If you have, it would also be helpful if you will say in what circumstances it was received and whether you were in any way personally involved, for example in its solicitation or encouragement. Have you met Lord Ashcroft in, say, the last 12 months, in this or any other connection?

I look forward to hearing from you and am enclosing a note I hope you will find helpful which sets out the procedure I seek to follow in relation to complaints.⁹ If you would like advice or would prefer to discuss Mr Whittle's complaint, please do not hesitate to contact my office on the number above.

10 March 2005

Sir Philip Mawer

3. Letter to the Commissioner from Mr Adrian Flook MP

Thank you for your letter to me of 10 March asking for my response to the complaint made by Mr Dan Whittle of the Labour Party. I am sorry it has taken me a few days to respond, but I hope you will appreciate that I have taken these allegations very seriously and wanted to ensure that the answers I have given you were the fullest possible. This necessitated checking the computers in my offices, both in London and in Taunton.

I first heard of the allegations via Tom Baldwin of The Times who called me at 17.45 on Monday 21 February when he accused me of not registering the payments in the Register of Members' Interests made by Lord Ashcroft through Bearwood Corporate Services to my local Conservative Association.

I was worried that I may have transgressed the Rules of the House and despite it being late in the afternoon, I immediately contacted and spoke to the Chief Whip, the Conservative Party's in-house electoral law expert as well as to Stephen Gilbert who I know as he was a former campaign director for the Conservative Party and who I also knew had had a role in helping Lord Ashcroft in choosing which Associations should receive funding.

All three of them expressed surprise that these allegations could be levelled at me in this manner and all three assured me that their reading of the Rules of the House did not mean that I have to register the gifts made to my Association in the Register. The next day I learned from the same journalist that the source had given up trying to place the story in the papers and was going to make a complaint directly to you.

In your letter to me, you point to paragraphs 25–27 of the Guide to the Rules on the Conduct of Members and I am especially aware of the Standards Advice Note 5 as it was raised at a meeting of the Conservative

7 Not appended by the Commissioner.

8 Not appended by the Commissioner.

9 Not appended by the Commissioner.

Parliamentary Party's 1922 Committee which I attended just before Christmas last year. At that meeting there was some discussion as to what the Advice Note meant in relation to what Members would in future have to declare, but as I recall the point about retrospective declarations was never raised. Since I have not 'solicited or encouraged' the donations from Lord Ashcroft or his company I did not give it a further thought.

I can confirm that the Taunton Constituency Conservative Association has indeed received all the £8,387.50 that Mr Whittle has written to you about and on the dates on which these donations were made, however I can not agree with his assumption that there is 'some clear and personal linkage between me and the donation'.

It can be said that I was aware that a request for a donation was going to be made as my local constituency agent, Mr Rodney Pilgrim, who also spent some of his time looking after my office, approached me to tell me that he had seen a press report that Lord Ashcroft was keen to help marginal constituencies. He said he was going to apply on behalf of the Association. He rightly raised this suggestion with me in case I might have had an issue with the Association receiving money from Lord Ashcroft. As Lord Ashcroft is a former party treasurer and a peer of the realm, I felt in no position to either encourage or discourage the Association and its agent from applying as like many other constituency associations there is always a constant struggle to raise funds.

As this was now sometime ago, following receipt of your letter, I could not remember whether I was in any way responsible for, say, signing the application or even making the requests for the payments. I have therefore taken the time to check through my files, both hard copy and digital. I can find nothing that shows I was involved in any way. The Association files do however show that the budget for the funding was made by Mr Pilgrim on behalf of the Association and that each request for funding was between them and Lord Ashcroft's agent, Stephen Gilbert.

In the attached papers to this letter, there is a 'business plan' put together by Mr Pilgrim as well as copies of the requests for each payment he made to Lord Ashcroft through Stephen Gilbert.¹⁰ As you will see, I was not privy to the plan or to each request for money. Like all MPs I am a member of my Association, yet I have never been involved in its running. Although my office shares the same address, it is physically separated from the Association as it is on a different floor. * * * To summarise, I was made aware that an approach to Lord Ashcroft was to be made, which was then carried out, but that is as far as my involvement went.

I can also categorically confirm that I have never met Lord Ashcroft nor been in any communication with him or even spoken to him. I did receive an invitation last summer to attend a party he was hosting, but I declined the invitation. He has never written to me nor used any intermediary to ask what I may think on a particular matter or to influence what I think in any way.

I am of course extremely grateful that Lord Ashcroft has been so generous to the Taunton Association and I feel it important to point out that these donations have each been declared to the Electoral Commission in the right way as each one was received by the Association.

Although I do not believe that I had a role in encouraging or soliciting the donations, should you as Commissioner believe that Advice Note 5 does necessitate my putting in an entry to the Register and that it also refers to historical payments, as all of them were received by the Association on or before 1st November, then of course I would be very happy to make a late entry and be most apologetic to you and the House for not having done so earlier.

However, for the record, I would like to confirm that there has never been any attempt on my behalf to deceive the House, especially as these donations were made public in the correct manner and indeed even referred to in press reports, I am told, as early as last Autumn.

¹⁰ Not appended by the Commissioner.

I would appreciate discussing this matter with you further if you consider there is a need to and so I await your further instructions.

24 March 2005

Adrian Flook MP

4. Letter to the Commissioner from Mr John Horam MP

Thank you for your letter of 10 March about the donation to my constituency association from Lord Ashcroft through his company Bearwood Corporate Services.

The facts are as follows.

About a year ago I became aware that Lord Ashcroft was making donations to Conservative Associations in marginal seats. Thinking that the Orpington Association might qualify (the majority over the Liberal Democrats at the last General Election being 269) I contacted his representative, Stephen Gilbert, and asked him to consider Orpington as it was a marginal seat. He rang me back in due course indicating that Lord Ashcroft would match any funds raised by the Orpington Association and spent on campaigning pound for pound up to a maximum of £10,000.

Following this on two occasions last year, in May and October, I wrote to Stephen Gilbert including details of invoices and costings for campaigning initiatives in Orpington and asking him to contribute half. The two amounts combined came to £6,094.

I should perhaps explain that we have no agent in Orpington and therefore organizing campaigning activity of this kind largely falls to me.

The details of these two donations were duly forwarded to the Compliance Officer at Conservative Central Office, and as a consequence became public knowledge. I met Lord Ashcroft for the first time in January of this year, and thanked him personally for his donation.

I was aware of category 4 (Sponsorship) in the Register of Interests, particularly subsection (a), but considered that since the donation from Lord Ashcroft was entirely because Orpington was a marginal seat, and had nothing to do with the fact that I might be the candidate at the next election or that I was an MP, it was not necessary to register it under my personal interests.

You have drawn my attention to Advice Note 5, which came out last November. I must confess that I did not read this when it came out because I assumed the situation would remain unchanged. However the wording used here includes the phrase “or a donation which has been solicited or encouraged by the Member.” This seems to me to significantly extend what should be included, and certainly it could be argued that I at least encouraged Lord Ashcroft to make a donation to the Orpington Conservative Association.

If this is correct I should have added the Ashcroft donation retrospectively to my list of interests and if this is the judgement I will certainly do so.

However, I would at some stage appreciate coming to see you because certain aspects of this do puzzle me, and not everything can be dealt with in a letter.

29 March 2005

Mr John Horam MP

5. Note by the Commissioner of his meeting with Mr John Horam on 5 April 2005

Meeting held on 5 April 2005 in the office of the Parliamentary Commissioner for Standards.

Present: Mr John Horam, MP, Sir Philip Mawer, PCS, and Ms Alda Barry, Registrar of Members' Interests.

PM began by stressing that Advice Note 5 did not contain any new rules or interpretation. The reference to donations solicited or encouraged by the Member appeared in paragraph 26 of the Guide to the Rules. It was PM's view that Mr Horam should have registered the donation from Lord Ashcroft.

PM asked JH to confirm that he had reported the donation to the Electoral Commission. JH said that he had, through the Compliance Officer at Conservative Central Office. He had been surprised when Central Office had said that he did not need to register with the House authorities. PM said that he understood that JH had not met Lord Ashcroft until after the donation had been given, and JH confirmed this.

PM suggested to JH that if JH agreed he would invoke the 'rectification procedure'. He had power to do this instead of moving to a report to the Committee in cases in which the failure to register a matter was minor or inadvertent. The present case was obviously not minor, in view of the amount of money involved, but from the explanation offered by JH it had been inadvertent and there had been no attempt to hide the donation. He explained the procedure. JH would apologise to the House through PM for overlooking his obligation to register, and agree that an entry should be made, to appear in bold type with an explanatory footnote (in which form it would remain for a year). PM would write to the complainant about the cases of Mr Flook and JH saying that in the one case there had been no breach of the rules and in the other there had been a breach as a result of a genuine oversight (as confirmed by the conversation). In this letter he would explain that JH had apologised and set out how he proposed to deal with the matter. The letter to the complainant would be copied to Mr Flook and JH.

JH asked what was the point of his registering the payment when it was already in the public domain. PM replied that the purpose of the Register was transparency, to provide information to the public about what influences might be operating on a Member. He agreed that there was duplication between the requirements of the Electoral Commission (who were bound by the law) and of the House. The Commission was concerned primarily with candidates and with political associations, the House with Members. He and the Committee on Standards and Privileges had been trying to align the requirements of the House and the Commission as far as possible and he had also engaged in discussion with the Commission in the hope that the House authorities could eventually take responsibility for all matters concerning Members as Members.

JH indicated that it was unlikely that he would be influenced by Lord Ashcroft's donation, or that Lord Ashcroft would seek to influence him. AB explained that the Register was designed to provide information about benefits *which might reasonably be thought by others* to influence Members.

JH asked what would happen if he decided against the rectification procedure. PM said that in that case he would proceed after the election to make a report to the Committee on Standards and Privileges when that was set up. He added that, as the complaint covered Mr Flook as well as JH, he would not be able to dispose of the case of Mr Flook in isolation before the election.

JH asked for time to consider the matter. He would give PM an answer as soon as possible.

6 April 2005

Sir Philip Mawer

6. Letter to the Commissioner from Mr John Horam MP

Thank you for your letter of 18 May.

You enclosed with this a draft of the factual sections of the report which you intend to make to the Committee on Standards and Privileges, and also a note of our meeting on 5 April and asked me for my comments.

I confirm that I am content with both the note and the draft as being fair and accurate. I would only request one addition, that in the Findings of Fact it is recorded that the donations from Lord Ashcroft through Bearwood were properly notified to the Electoral Commission and thus in the public domain.

Let me also reiterate that I accept that I breached the Code of Conduct in not also recording the donation in the Register of Interests and that I am very willing to apologise and set the matter straight in the appropriate way.

We discussed this duplication at our meeting and you have now asked me to expand on my view that this causes some confusion.

I think the main confusion arises from the fact that once a donation to a constituency organization of this kind has been registered with the Electoral Commission, Members may well believe that they have done all that is required, since this does achieve the openness which, as you say, is the object of registration. It was certainly the case that neither I, nor Mr Flook, nor the Compliance Officer of the Conservative Party were aware that we had to make this double entry, and my general impression is that we are not unique in this respect.

The need for a double disclosure does add to the regulatory burden on MPs, and while I accept that in this case it is very slight, it does all add up.

You said at our meeting that you “had been trying to align the requirements of the House and the Commission” and you “had also engaged in discussion with the Commission in the hope that the House authorities could eventually take responsibility for all matters concerning Members as Members”.

In that light could I suggest that consideration be given to you becoming a one-stop shop for the registration of Members’ Interests, with the facts being automatically transferred to the Electoral Commission so that they could register them as well, if appropriate.

9 June 2005

Mr John Horam MP

Appendix 2: Letter to the Chairman from Mr John Horam MP

You have before you the memorandum submitted by the Parliamentary Commissioner for Standards, and my view is that this is a perfectly accurate summary of the issues.

I am pleased that there is recognition that there was no attempt on my part to cover up the donations to my constituency association from Lord Ashcroft. They were properly reported to the Electoral Commission and therefore in the public domain. The breach of the Code arose from my failure to understand that I had also to declare the donations on my Register of Interests.

The Commissioner offered me the rectification procedure, which is allowable when the interest is minor or the failure inadvertent, but I declined this because there seemed to me an issue of duplication which should be aired. I am glad that the Commissioner acknowledges that this is a real issue and steps are being taken to resolve it.

I apologise for my breach of the Code and will rectify it at the earliest opportunity.

15 July 2005

John Horam MP

Formal minutes

Tuesday 19 July 2005

Members present:

Sir George Young, in the Chair

Mr Kevin Barron
Angela Browning
Mr Andrew Dismore
Nick Harvey

Mr Brian Jenkins
Mr Elfyn Llwyd
Mr Andrew Mackay
Dr Alan Whitehead

* * *

The Committee deliberated.

Draft Report [Conduct of Mr John Horam], proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 11 read and agreed to.

Resolved, That the Report be the Second Report of the Committee to the House.

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

Several Papers were ordered to be appended to the Report.

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

* * *

[Adjourned till Tuesday 18 October at 10.30 am.]

Reports from the Committee on Standards and Privileges in the current Parliament

Session 2005–06

First Report	Conduct of Mr Jonathan Sayeed	HC 419
Second Report	Conduct of Mr John Horam	HC 420