

# HOUSE OF LORDS

## Committee for Privileges

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2nd Report of Session 2009–10

## Guide to the Code of Conduct

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### *The Committee for Privileges*

The Committee for Privileges is appointed each session by the House to consider questions regarding its privileges and claims of peerage and precedence and to oversee the operation of the Register of Interests. Detailed consideration of matters relating to the Register of Interests is undertaken by the Sub-Committee on Lords' Interests.

### *Current Membership*

The Members of the Committee for Privileges are:

Baroness Anelay of St Johns  
Lord Bassam of Brighton  
Lord Brabazon of Tara (*Chairman*)  
Lord Brooke of Sutton Mandeville  
Baroness D'Souza  
Lord Eames  
Lord Graham of Edmonton  
Lord Howe of Aberavon  
Lord Irvine of Lairg  
Lord Mackay of Clashfern  
Lord McNally  
Baroness Manningham-Buller  
Baroness Royall of Blaisdon  
Lord Scott of Foscote  
Lord Shutt of Greetland  
Lord Strathclyde

The Members of the Sub-Committee on Lords' Interests are:

Lord Cope of Berkeley  
Lord Dholakia  
Lord Irvine of Lairg  
Baroness Manningham-Buller (*Chairman*)  
Baroness O'Neill of Bengarve

A full list of Members' interests can be found in the Register of Lords' Interests:

<http://www.publications.parliament.uk/pa/ld/ldreg/reg01.htm>.

### *General Information*

General information about the House of Lords and its Committees is on the Internet at

<http://www.parliament.uk/lords/index.cfm>.

### *Contacts*

General correspondence should be addressed to the Clerk of the Committee for Privileges, House of Lords, London, SW1A 0PW (telephone 020 7219 8796).

Correspondence relating to Members' interests, or the work of the Sub-Committee on Lords' Interests, should be addressed to the Registrar of Lords' Interests, House of Lords, London SW1A 0PW (telephone 020 7219 3120).

## GUIDE TO THE CODE OF CONDUCT

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### Background

1. In October 2009 the Report of the Leader's Group on the Code of Conduct<sup>1</sup> was published, which proposed a new Code of Conduct and an accompanying Guide to the Rules on the Conduct of Members.
2. On 30 November 2009 the House agreed the new Code of Conduct. The House also agreed that "the Report [of the Leader's Group] be remitted to the Committee for Privileges, with an instruction that it reports a Guide to the Rules on the Conduct of Members of the House of Lords to the House". This Report is made in accordance with that instruction.
3. Following the decisions taken by the House on 30 November, we invited our Sub-Committee on Lords' Interests to undertake the detailed work necessary before the Guide could be finalised. The Sub-Committee finalised its report in February 2010; we considered it at our meeting on 1 March, and agreed a number of amendments. The final text of the proposed Guide (which has been re-titled the "Guide to the Code of Conduct") was then agreed by correspondence, and is printed in the Appendix to this Report.

### Recommendations

#### *The Guide to the Code of Conduct*

4. The substance of our recommendations to the House is embodied in the proposed Guide to the Code of Conduct. This is modelled closely on that prepared last year by the Leader's Group, which has already been fully debated. However, a number of changes have been made, which we believe lead to greater clarity and simplicity. Moreover, we emphasise that the Sub-Committee is charged, under the Code, with keeping keep the Guide under review, so that there will be opportunities to address any difficulties that may arise in the course of implementation.
5. **We invite the House to agree the Guide to the Code of Conduct, contained in the Appendix to this Report.**

#### *Implementation date*

6. The Resolution of 30 November 2009 stated that the new Code of Conduct would come into effect on 1 April 2010. In the event, we are concerned that implementation on that date may lead to uncertainty, as well as increasing the burden upon the administration at a time when it is likely to be fully stretched. We believe that it would be simpler and more fitting for the Code to come into effect at the start of the new Parliament.
7. **We recommend that, notwithstanding the Resolution of the House of 30 November 2009, the new Code of Conduct and the accompanying Guide should come into effect from the start of the new Parliament.**

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<sup>1</sup> Report of the Leader's Group on the Code of Conduct, October 2009 (HL Paper 171).

*The undertaking to abide by the Code of Conduct*

8. Paragraph 5 of the Code of Conduct states that “Members are to sign an undertaking to abide by the Code as part of the ceremony of taking the oath upon introduction and at the start of each Parliament.” The Clerk of the Parliaments has made proposals on the procedure for signing the undertaking. These proposals, which we endorse, are as follows:
  - The undertaking will be signed by Members in the Chamber, immediately after taking the oath and before shaking hands with the Lord Speaker.
  - On swearing-in days at the start of a new Parliament, a separate table will be provided in the Chamber, manned by a Clerk, at which Members will sign the undertaking.
  - New Members, upon introduction, will sign the undertaking at the Table of the House immediately after signing the Test Roll.
  - The undertaking will be in the following form: “I undertake to abide for the duration of the present Parliament by the Code of Conduct as agreed by resolutions of the House from time to time.”
  - The undertaking will be printed in a specially prepared book or folder—Members will sign the book to indicate assent, but will not be expected to read the undertaking out aloud.
  - The names of Members signing the undertaking will be recorded in the Minutes of Proceedings.
9. A Lords Notice will accompany the writ of summons issued for a new Parliament to inform Members that they will be expected to sign the undertaking to abide by the Code immediately after taking the oath. The Lords Notice will remind Members of the provisions of the Code of Conduct and the existence of the Guide. The Clerk of the Parliaments will, wherever practical, make new Members of the House aware well in advance of introduction of the provisions of the Code of Conduct and the Guide and the requirement to sign the undertaking. We hope that the House of Lords Appointments Commission will be willing to assist by making potential nominees for peerages aware of the provisions of the Code of Conduct—though it would be inappropriate for the Commission to require a potential nominee to undertake before nomination that they would sign the undertaking.
10. The formal status of the undertaking was the subject of debate when the Code was agreed on 30 November 2009. It is clear from the wording of paragraph 5 that signing the undertaking is mandatory. The Code of Conduct, having been agreed by Resolution of the House, is binding upon all Members who are not on Leave of Absence—the undertaking is a token of the individual Member’s understanding of and commitment to the principles and rules set out in the Code, but does not in itself affect the Code’s binding nature. There is therefore no justification for any Member of the House failing to sign the undertaking; indeed, the requirement to sign the undertaking, in pursuance of the rules agreed by the House, is an implied condition of active membership of the House.
11. We conclude therefore that any Member who has not signed the undertaking must be deemed to have breached the Code; it would be for the Sub-Committee on Lords’ Conduct to consider an appropriate sanction.

*Interests of the Lord Speaker, Chairman of Committees and Principal Deputy Chairman of Committees*

12. The current rules governing the Lord Speaker's interests were set out in a Procedure Committee Report in 2006,<sup>2</sup> and need to be updated in light of the new categories of relevant interest. **We therefore recommend that the following rules on interests apply to the Lord Speaker from the start of the new Parliament:**

“The Lord Speaker is subject to the Code of Conduct in the same way as all other Members of the House and, in order to avoid any perception of conflict of interest, is also subject to additional requirements. The Lord Speaker is expected, during his or her period in office, to lay aside any financial interests falling within categories 1, 2, 3, 6, 7 and 8, as defined in the Guide to the Code of Conduct.

“Interests held by the Lord Speaker's spouse or partner are subject to the same requirements as interests held by the spouse or partner of any other Member of the House.

“The Lord Speaker is also expected to lay aside any political party or group affiliation upon appointment, and to refrain from political activity, including voting in the House.”

13. We believe that the same rules should apply to the other salaried office-holders of the House of Lords, the Chairman of Committees and the Principal Deputy Chairman of Committees. However, in the case of these two office-holders the final paragraph needs to be amended to reflect the different conventions attaching to those offices. **We therefore recommend that the following rules on interests apply to the Chairman of Committees and the Principal Deputy Chairman of Committees from the start of the new Parliament:**

“The Chairman and Principal Deputy Chairman of Committees are subject to the Code of Conduct in the same way as all other Members of the House and, in order to avoid any perception of conflict of interest, are also subject to additional requirements. The Chairman and Principal Deputy Chairman of Committees are expected, during their period in office, to lay aside any financial interests falling within categories 1, 2, 3, 6, 7 and 8, as defined in the Guide to the Code of Conduct.

“Interests held by the Chairman or Principal Deputy Chairman of Committees' spouse or partner are subject to the same requirements as interests held by the spouse or partner of any other Member of the House.

“The Chairman and Principal Deputy Chairman of Committees are also expected to lay aside any political party or group affiliation upon appointment and for the duration of their term in office.”

*Changing the name of the Committee for Privileges and its Sub-Committee on Lords' Interests*

14. The Sub-Committee has recommended that its name be changed in light of its changed remit. The Sub-Committee has proposed that in future it should

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<sup>2</sup> Procedure Committee, 4th Report, 2005–06 (HL Paper 172).

be known as the “Sub-Committee on Lords’ Conduct”. We support this change.

15. We believe further that the name of this Committee should be changed to reflect the changing nature of its work, which in recent years has focused very largely on matters relating to the Code of Conduct. **We recommend therefore that this Committee should in future be named the “Committee for Privileges and Conduct”.**
16. These changes will involve minor consequential amendments to the Code of Conduct (new text emboldened):
  - Paragraph 17: “After investigation the Commissioner reports his findings to the Sub-Committee on Lords’ **Conduct**; the Sub-Committee reviews the Commissioner’s findings and, where appropriate, recommends a disciplinary sanction to the Committee for Privileges **and Conduct**. The Member concerned has a right of appeal to the Committee for Privileges **and Conduct** against both the Commissioner’s findings and any recommended sanction.”
  - Paragraph 18: “The Committee for Privileges **and Conduct**, having heard any appeal, reports its conclusions and recommendations to the House. The final decision rests with the House.”
  - Paragraph 19: “In investigating and adjudicating allegations of non-compliance with this Code, the Commissioner, the Sub-Committee on Lords’ **Conduct** and the Committee for Privileges **and Conduct** shall act in accordance with the principles of natural justice and fairness.”
  - Paragraph 21: “No Member shall lobby a member of the Committee for Privileges **and Conduct** or the Sub-Committee on Lords’ **Conduct** in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code.”
  - Paragraph 22: “The operation of the Register is overseen by the Sub-Committee on Lords’ **Conduct**, assisted by the Registrar of Lords’ Interests. The Registrar is available to advise Members of the House, and may consult the Sub-Committee when necessary.”
  - Paragraph 24: “The Sub-Committee on Lords’ **Conduct** reviews the Code of Conduct once each Parliament. Its findings, along with any recommended changes to the Code, are reported to the House.”
17. In addition, the change to the name of the Committee for Privileges will require the following amendments to Standing Orders:
  - Standing Order 19(3) (Election of Lord Speaker): “The election shall be conducted in accordance with arrangements made by the Clerk of the Parliaments. The Clerk of the Parliaments may refer any question concerning the propriety of the electoral process to the Committee for Privileges **and Conduct**.”
  - Standing Order 65 (Sessional Committees): “Committee for Privileges **and Conduct**”.
  - Standing Order 78 (Committee for Privileges **and Conduct**): “A Committee for Privileges **and Conduct** shall be appointed at the beginning of every session; sixteen Lords shall be named of the Committee, of whom two shall be former holders of high judicial office.

In any claim of peerage, the Committee for Privileges **and Conduct** shall sit with three holders of high judicial office, who shall have the same speaking and voting rights as the members of the Committee.”

- Standing Order 79 (Claims of Peerage): “In claims of Peerage the following directions shall apply in regard to claims by Petition which have been referred to the Committee for Privileges **and Conduct**”.
- Standing Order 81(3) (Claims of Irish Peerages in abeyance): “Every such claim shall be referred to the Committee for Privileges **and Conduct** to examine the matter and report the same, as it shall appear to them, to the House.”
- Standing Order 82 (Report of Committee for Privileges if improper arrangement entered into between co-heirs): “If in regard to a claim for the determination of an abeyance existing in a Peerage the Committee for Privileges **and Conduct** is satisfied that any arrangement entered into between the Petitioner and any co-heir is tainted with any impropriety, the Committee shall make no report to the House except that such arrangement is not shown to have been a proper one.”

## APPENDIX: GUIDE TO THE CODE OF CONDUCT

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### Introduction

1. This Guide explains the application of the House of Lords Code of Conduct. Its purpose is to help Members discharge the duties that the Code places upon them. The House has adopted this Guide by resolution and it is binding on all Members.
2. The operation of the Code is overseen by the Sub-Committee on Lords' Conduct, a Sub-Committee of the Committee for Privileges and Conduct. The Sub-Committee is supported by the Registrar of Lords' Interests, who is responsible for maintaining the Register of Lords' Interests.
3. No written guidance can provide for all circumstances: when in doubt Members should seek the advice of the Registrar of Lords' Interests. The Registrar consults the Sub-Committee when necessary. A Member who acts on the advice of the Registrar in determining what the Member is required to register or declare as a relevant interest fully satisfies the requirements of the Code of Conduct as regards registration or declaration. While the Registrar also advises on participation in parliamentary proceedings where interests are concerned, the final responsibility for deciding whether or not to participate in proceedings rests with the Member concerned.
4. The procedure for enforcing the Code of Conduct is described later in this Guide. In summary, responsibility for investigating alleged breaches of the Code rests with the House of Lords Commissioner for Standards, who is an independent officer appointed by the House as a whole. Following his investigation, the Commissioner reports findings of fact to the Sub-Committee on Lords' Conduct and offers his own conclusion on whether the Code has been breached. The Sub-Committee reviews the Commissioner's findings, may comment on them and, where appropriate, recommends a sanction. The reports of the Commissioner and Sub-Committee are presented to the Committee for Privileges and Conduct, and the Member concerned has a right of appeal against both the Commissioner's findings and any recommended sanction. Having heard any appeal, the Committee for Privileges and Conduct reports to the House and the final decision rests with the House.
5. Ministers of the Crown who are Members of the House of Lords are subject to the Code of Conduct by virtue of their membership of the House. Ministers are also subject to further guidelines and requirements set out in the "Ministerial Code" published by the Cabinet Office. The Cabinet Office, not the House of Lords, enforces the Ministerial Code.

The remainder of this Guide is divided into six sections:

- general principles and rules of conduct;
- registration of interests;
- declaration of interests;
- use of facilities and services;
- financial support;
- enforcement.

## General principles and rules of conduct

### *Personal honour*

6. In accordance with paragraph 5 of the Code of Conduct, Members are required to sign an undertaking to abide by the Code as part of the ceremony of taking the oath upon introduction and at the start of each Parliament. A Member who has not signed the undertaking is therefore deemed to have breached the Code, and it will be for the Sub-Committee on Lords' Conduct to consider an appropriate sanction.

7. Members are required both “to comply with the Code of Conduct” (paragraph 8(a)), and to act always “on their personal honour” (paragraph 8(b)). The term “personal honour” has been explained by the Committee for Privileges as follows:

“The term ‘personal honour’ has been used within the House for centuries to describe the guiding principles that govern the conduct of Members; its meaning has never been defined, and has not needed definition, because it is inherent in the culture and conventions of the House. These change over time, and thus any definition of ‘personal honour’, while it might achieve temporary ‘legal certainty’, would quickly become out-moded ... the term ‘personal honour’ is ultimately an expression of the sense of the House as a whole as to the standards of conduct expected of individual Members ... Members cannot rely simply on their own personal sense of what is honourable. They are required to act in accordance with the standards expected by the House as a whole. ‘Personal honour’ is thus ... a matter for individual Members, subject to the sense and culture of the House as a whole.”<sup>3</sup>

8. The Code of Conduct has been agreed by resolution of the House, with a view to providing guidance for Members and the public as to the standards of conduct the House expects of its Members in the discharge of their parliamentary duties. But a written Code can never cover every eventuality. Paragraphs 8(a) and 8(b) of the Code, taken together, mean that Members are required not only to obey the letter of the rules, but to act in accordance with the spirit of those rules and the sense of the House.

### *The “general principles of conduct”*

9. Paragraph 9 of the Code requires Members of the House to observe the seven general principles of conduct set out by the Committee on Standards in Public Life. These principles apply to all aspects of public life, and provide the context within which the House of Lords Code of Conduct is read and implemented.

10. Complaints will not be entertained solely on the basis of alleged failures to abide by the seven principles (unsupported by specific evidence of a breach of the Code). However, these principles are taken into account when investigating any alleged breach of the provisions in other sections of the Code. Thus, for example, an allegation that a Member failed to register a relevant interest would be investigated in the context of the general duty of “honesty”, namely that “Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest”.

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<sup>3</sup> Committee for Privileges, 2nd Report, session 2008–09 (HL Paper 88)

*Participation in parliamentary proceedings*

11. In accordance with paragraph 15 of the Code a Member with a relevant interest is free to take part in the public business of the House subject to:

- the rules on financial inducements and parliamentary influence (paragraph 8 of the Code);
- the rules on paid advocacy (paragraph 14 of the Code);
- the rules on the registration and declaration of interests (paragraphs 10-12 of the Code); and
- the resolution of any conflict between personal and public interest in favour of the public interest (paragraph 7 of the Code).

12. However, paragraph 15 goes on to state that “Members of the House should be especially cautious in deciding whether to speak or vote in relation to interests that are direct, pecuniary and shared by few others.” Such caution is especially required where a financial interest is direct (the Member could personally benefit as a direct result of the proceeding) and shared by few others (the Member is one of a small group of people in society who would so benefit).

13. More generally, a Member who is unsure whether or not to participate in parliamentary proceedings in relation to which he or she has relevant interests should consider the following factors:

- the nature of the proceeding itself. There would, for instance, be more latitude in the case of a general debate than in proposing or voting on an amendment to legislation. Members with financial interests that are relevant to private legislation should exercise particular caution, and seek advice before deciding to participate in proceedings on that legislation.<sup>4</sup>
- the nature of the Member’s intended contribution. A speech urging Government investment in a sector in which the Member had a financial interest might be open to misconstruction, whereas a speech canvassing issues of more general interest would not.

14. Members may consult the Registrar on these matters, but as paragraph 23 of the Code makes clear, “the final responsibility for deciding whether or not to participate in proceedings to which that interest is relevant rests with the Member concerned”.

*Financial inducements and parliamentary influence*

15. Members are required under paragraph 7 of the Code to base their actions on consideration of the public interest. Acceptance of financial inducement as an incentive or reward for exercising parliamentary influence would necessarily contravene this principle. Paragraph 8(c) of the Code therefore states that Members “must never accept or agree to accept any financial inducement as an incentive or reward for exercising parliamentary influence”.

16. Paragraph 8(d) of the Code describes the specific application of the principles described in paragraphs 7 and 8(c): Members “must not seek to profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services”.

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<sup>4</sup> A Member with an interest in the outcome of a private bill may not serve on the Committee on the bill (Private Business Standing Order No 96).

17. Members of the House of Lords have a wide range of outside interests and careers and the House thrives on their expertise. The Code in no way seeks either to curtail these interests or careers, or to discourage Members from drawing on the knowledge and expertise so gained in their parliamentary work. It is thus entirely appropriate for a Member of the House also to work in any non-parliamentary sphere of activity, for example as chairman or director of a company; as a member or chief executive of a non-departmental public body; as an officer of a trade union; as a doctor or lawyer. Moreover, it is not only permissible, but desirable, that such Members, having declared their employment and other interests, should contribute to debate on issues to which these interests are relevant.

18. At the same time, in their parliamentary work, and whenever they act in their capacity as parliamentarians, Members are required to base their actions solely upon consideration of the public interest. Members thus have a responsibility to maintain a clear distinction between their outside interests and their parliamentary work. It is incompatible with the maintenance of this distinction for a Member, by offering parliamentary advice or services to paying clients, to seek to profit from membership of the House. The Code therefore prohibits Members from accepting payment in return for parliamentary advice or services.

19. The prohibition from accepting payment in return for *parliamentary advice* means that Members may not act as paid parliamentary consultants, advising outside organisations or persons on process, for example how they may lobby or otherwise influence the work of Parliament. The following is not parliamentary advice:

- advice on public policy and current affairs;
- advice in general terms about how Parliament works; and
- media appearances, journalism, books, public lectures and speeches.

20. Although a Member may never provide parliamentary advice in return for payment, a Member may exceptionally give parliamentary advice to an organisation or person with whom the Member has a financial interest, provided that the Member can demonstrate that:

- he or she does not receive payment or benefit in return for the provision of parliamentary advice or services. The Member should, if challenged, be able clearly to show that the payment or benefit is provided in return for some non-parliamentary advice or service which the Member provides; the Member should, where possible, ensure that contractual agreements specifically exclude the provision of parliamentary advice or services; and
- the payment or benefit which the Member does receive is not substantially due to membership of the House, but is by reason of personal expertise or experience gained substantially outside Parliament; and that the Member was, or would have been, appointed to the position without being a Member of the House.

21. The prohibition from accepting payment in return for *parliamentary services* means that Members may not, in return for payment or other incentive or reward, assist outside organisations or persons in influencing Parliament. This includes seeking by means of participation in proceedings of the House to confer exclusive benefit upon the organisation (the “no paid advocacy rule”); or making use of their position to arrange meetings with a view to any person lobbying Members of either House, ministers or officials. A Member may never provide parliamentary services in return for payment or other incentive or reward.

22. Members may work for or hold financial interests in organisations such as representative bodies, trade associations or organisations involved in parliamentary lobbying on behalf of clients (such as public relations and law firms). However, in accordance with paragraph 8(d) of the Code of Conduct, Members themselves are prohibited from personally offering parliamentary advice or services to clients, both directly and indirectly.

*“Paid advocacy”*

23. Paragraph 8(d) of the Code states that a Member “must not seek to profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services.” Paragraph 14 of the Code states that a Member “must not act as a paid advocate in any proceeding of the House; that is to say, he or she must not seek by parliamentary means to confer exclusive benefit on an outside body or person from which he or she receives payment or reward.”

24. The “exclusive benefit” principle would mean, for instance, that a Member who was paid by a pharmaceutical company would be barred from seeking to confer benefit exclusively upon that company by parliamentary means. The way in which the benefit is conferred should be interpreted broadly. All proceedings of the House are included, for instance:

- tabling a motion or an amendment to legislation;
- voting in a division;
- speaking in debate;
- asking written or oral questions; and
- deliberation within a Select Committee.

25. The nature of the “exclusive benefit”, on the other hand, should be interpreted narrowly. The same Member would not be debarred from tabling an amendment, speaking or voting on matters relevant to, for instance, the pharmaceutical sector as a whole; National Health Service spending on drugs; or Government policy on drug licensing and patents.

26. The term “outside body” includes any registrable client of such a body (see below, paragraph 57).

27. A Member who has a financial interest in, or receives a financial benefit from, a representative organisation, such as a trade association, trade union, staff association, professional body, charity or issue-related lobby group, may not advocate measures for the exclusive benefit of that organisation or the trade, industry or interest that it represents; nor speak or act in support of a campaign exclusively for the benefit of the representative organisation or its membership (e.g. a campaign for special tax relief, or for a specific programme of development). But the Member may speak or act in support of a campaign that is of interest to the representative organisation, but is also of wider application (for instance, in the case of a charity for cancer research, a campaign for the prohibition of smoking).

28. A Member who seeks to confer benefit on an organisation in which he or she has a financial interest, but who considers that this does not constitute an “exclusive benefit”, should make it clear in debate how he or she is acting not only in the interest of the organisation, but also the wider sector or community of which that organisation forms a part.

29. Paragraphs 8(c) and 8(d) of the Code (the prohibitions of payment for exercising parliamentary influence and of payment for providing parliamentary advice and services) and paragraph 14 of the Code (the prohibition of paid advocacy for exclusive benefit) do not apply to the Lords Spiritual, to Ministers of the Crown, or to Members or employees of non-departmental public bodies (whether commercial or non-commercial in character) in relation to those specific roles. Members and employees of public boards may take part in proceedings affecting the boards of which they are Members or employees, subject to the usual rules on declaration of interests.

30. Paragraphs 8(c), 8(d) and 14 of the Code do not apply to Members of the House acting as counsel on behalf of clients before Private Bill Committees or the Committee for Privileges and Conduct. Nor do they apply to Members appearing personally or on behalf of outside organisations as witnesses before select committees of either House.

### **Registration of interests**

31. Under the Code, Members are required to register in the Register of Lords' Interests all relevant interests. The compilation and maintenance of the Register is undertaken by the Registrar of Lords' Interests.

32. The purpose of the Register is to assist in openness and accountability by enabling Members to make clear what are the interests that might be thought by a reasonable Member of the public to influence their actions, speeches or votes in Parliament, or actions taken in their capacity as Members of the House of Lords. The registration form specifies 10 categories of registrable interest, which are described below.

33. Relevant interests may be financial or non-financial. The key consideration in determining relevance in respect of both registration and declaration of an interest is that the interest might be thought by a reasonable member of the public to influence the way in which a Member of the House of Lords discharges his or her parliamentary duties. In the case of registration, this means the Member's parliamentary duties in general; in the case of declaration, his or her duties in respect of the particular matter under discussion.

34. A "reasonable member of the public" is taken to mean an impartial and well-informed person, who judges all the relevant facts in an objective manner.

35. Members of the House of Lords are required to complete a registration form and submit it to the Registrar of Lords' Interests within one month of taking their seat. Thereafter it is the responsibility of Members to keep their entry up-to-date by notifying changes in their registrable interests within one month of each change occurring. Failure to do so breaches the Code of Conduct. Members are encouraged to correspond with the Registrar by email to [lordsregistrar@parliament.uk](mailto:lordsregistrar@parliament.uk).

36. Any Member having a registrable interest which has not at the time been registered shall not undertake any action, speech or proceeding of the House (save voting) to which the interest would be relevant until they have registered the interest. In cases where Members vote in a division where they have a relevant interest which they have yet to register, they must register the interest within 24 hours of the division.

37. Members are responsible for making a full disclosure of their interests, and if they have relevant financial interests which do not fall clearly into one or other of

the specific categories, they are nonetheless expected to register them, if necessary under category 9 (Miscellaneous financial interests).

38. Any reference in this Guide to a spouse includes a Member's civil partner or cohabitee. Registration of a spouse's interests is required in certain cases. However, registration of the interests of a relative or friend is not required. Members may, at their discretion, declare such interests where they consider them to be relevant to the particular matter in hand, but they are not generally relevant to a Member's parliamentary conduct as a whole and are thus excluded from the Register.

*The value of interests required to be registered*

39. All single benefits of whatever kind which fall into any of the following categories, and which exceed £500<sup>5</sup> in value, should be registered in the appropriate category (unless a higher threshold is specified in the relevant category). All benefits received from the same source in the course of a calendar year, which cumulatively amount to more than £500 in value, should also be registered. When there is uncertainty as to whether a single benefit or cumulative benefits exceed the threshold, Members should err on the side of registration.

40. Interests below £500 (or the relevant threshold, if higher) in value are not required to be registered, unless a) they fall into one of various categories of non-financial interests for which registration is mandatory; or b) they could be thought by a reasonable member of the public to affect the way in which a Member of the House of Lords discharges his or her parliamentary duties.

41. If a Member considers that any benefit he or she has received, though falling below the value of £500 (or the relevant threshold, if higher), should be registered, the Member should seek the advice of the Registrar. If, after taking the advice of the Registrar, the Member still considers that the interest should be registered, he or she may register it in the appropriate category.

42. Financial interests below £500 in value may also be declared.

*Preparation and publication of the Register*

43. The Register of Lords' Interests is printed and published in book form soon after the beginning of a new Parliament, and annually thereafter. As part of the preparation for the annual reprinting of the Register as a book, the Registrar sends a circular to all Members of the House inviting them to check and update their Register entry. But Members themselves are responsible at all times throughout the year for ensuring that their Register entry is accurate and up-to-date.

44. Because the Register in book form goes quickly out of date, the Register is updated daily when the House is sitting, and is published online at [www.publications.parliament.uk/pa/ld/ldreg.htm](http://www.publications.parliament.uk/pa/ld/ldreg.htm). This up-to-date online edition of the Register is also available in a loose leaf form for inspection by Members at the Table of the House, in the Table Office, and in the Library; and by the public in the Search Room of the Parliamentary Archives.

45. Previous editions of the Register in book form are also available online.

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<sup>5</sup> This figure will be updated once each Parliament, in line with retail price inflation.

## Categories of registrable interest

### *Category 1: Directorships*

*Remunerated directorships in public and private companies, including non-executive directorships, and including directorships which are not directly remunerated, but where remuneration is paid through another company in the same group.*

46. In this category, and in others, “remuneration” includes not only salaries and fees, but also the receipt of any taxable expenses, allowances, or benefits, such as the provision of a company car. Members should register the name of the company in which the directorship is held and give a broad indication of the company’s business, where this is not self-evident from its name. Directly remunerated directorships of companies which are not trading should be registered.

47. In addition to any remunerated directorships, Members are required to register under this category any directorships which are themselves unremunerated but where either a) remuneration is paid through another company in the same group where the companies in question are associated; or b) the company concerned is a subsidiary of another company in which the Member concerned holds remunerated directorships. Other unremunerated directorships should be registered under category 10 (Non-financial interests).

48. The amount of remuneration in respect of interests falling within this category is not disclosed. The contract does not need to be deposited with the Registrar.

### *Category 2: Remunerated employment etc.*

*Employment, office, trade, profession or vocation which is remunerated or in which the Member has any pecuniary interest.*

49. All employment outside the House and any sources of remuneration which do not fall clearly within any other category should be registered here. When registering employment, Members should state the employing organisation, the nature of its business (where this is not self-evident) and the nature of the post that they hold in the organisation.

50. Members who have paid posts as consultants or advisers should indicate the nature of the consultancy or advice given, for example “management consultant”, “legal adviser” or “public affairs consultant”. They should, in the case of public affairs consultancies, give careful consideration to paragraph 8(d) of the Code and the accompanying guidance, and should also list their clients under category 3.

51. Occasional income or benefits from speeches, lecturing, broadcasting or journalism which exceeds £1,000 in the course of a calendar year from a single source should be registered under this category and the source should be identified.

52. Membership of Lloyd’s should be registered under this category. Members who have resigned from Lloyd’s should continue to register their interest as long as syndicates in which they have participated continue to have years of account which are open or in run-off. Members of Lloyd’s are also required to disclose the categories of insurance business which they are underwriting.

53. Members who have previously practised a profession may register that profession under this category with a bracketed remark such as “[non-practising]” after the entry.

54. Members are not required to register pension arrangements, unless conditions are attached to the continuing receipt of the pension that a reasonable Member of the public might regard as likely to influence their conduct as parliamentarians. Such conditions attaching to pensions from European Union institutions do not normally require the pension to be registered or declared in proceedings in the House.

55. Membership of the House is not to be registered under this category.

56. The amount of remuneration in respect of interests falling within this category is not disclosed. The contract does not need to be deposited with the Registrar.

### *Category 3: Public affairs advice and services to clients*

*In respect of remunerated interests registered in categories 1 or 2, any provision to clients of public affairs advice and services.*

57. The types of services covered here are those falling under the broad heading of public affairs advice and services. Where a Member receives remuneration from an organisation engaged in such work, the Member should list any of those clients to whom he or she personally provides public affairs advice or services either directly or indirectly. Members with an interest in this category should pay particular regard to paragraphs 15 to 22.

58. All such clients should be listed, along with a broad indication of their business, where this is not self-evident.

59. A Member who has clients in a professional capacity which does not relate to public affairs (for example, as an accountant, doctor or lawyer) is not required to register those clients, provided that the Member can demonstrate that the Member does not provide public affairs advice and services to the clients.

### *Category 4: Shareholdings*

*Any shareholding either a) amounting to a controlling interest, or b) not amounting to a controlling interest, but exceeding £50,000 in value.*

60. Members should include all such shareholdings held, either personally, or with or on behalf of their spouse or dependent children, in any public or private company. Members should not specify the value of the shares, or the percentage of shares in a company that are owned, other than by indicating whether the shareholding falls under category 4(a) or 4(b).

61. For each registrable shareholding, the entry should state the name of the company, and briefly indicate the nature of the company's business, where this is not self-evident.

62. The value of a shareholding is determined by the market price of the share on the preceding 5 April; but if the market price cannot be ascertained (e.g. because the company is unquoted and there is no market in the shares), the Member should decide whether to register it on the basis of its estimated value. Interests in shareholdings include share options.

63. Holdings in a collective investment vehicle (including unit trusts, investment trusts and investment companies with variable capital (ICVCs)) are not generally registrable. Members may, however, consider registration in this category in appropriate cases, such as sector-specific vehicles. Members who are beneficiaries of trusts should treat them in the same way. Holdings in blind trusts are exempt from registration.

64. Pensions are not in themselves registrable (see above, paragraph 54), but identifiable holdings in a self-invested personal fund, are registrable in either this category or category 5 as appropriate if of registrable value.

65. Shareholdings in companies the purpose of which is to own the freehold of a personal residence of a Member or of a property registered in another category are not registrable.

#### *Category 5: Land and property*

*Any land or property a) which has a capital value of more than £250,000 (but excluding any personal residences of Members and their spouses), or b) from which an income of more than £5,000 a year is derived.*

66. Only the nature of the property and a general indication of its location should be indicated (e.g. “farm in Norfolk”, “residential holdings in Birmingham”, and so on); the value of the property and the income received need not be registered. No property that is used for personal residential purposes need be registered, unless it falls under part (b).

#### *Category 6: Sponsorship*

*Any form of financial or material support received as a Member of the House of Lords, the value of which amounts to more than £500, from a single source, whether as a single donation, multiple donations, or services in kind.*

67. This category covers sponsorship or other forms of support by companies, trade unions, professional bodies, trade associations, charities, universities, other organisations and individuals. It covers any support from which the Member receives financial or material benefit in his or her role as a Member of the House of Lords. The types of support which should be registered include the services of a research assistant or secretary whose salary, in whole or in part, is met by an outside organisation or individual; and the provision of accommodation.

#### *Category 7: Overseas visits*

*Overseas visits made by the Member or the Member’s spouse substantially arising out of membership of the House, except where the cost of the visit was wholly borne by the Member or by United Kingdom public funds.*

68. Members should enter in the Register the date, destination and purpose of the visit and the name of the government, organisation, or individual which met the cost. Where only part of the cost was borne by an outside source (for example the cost of accommodation but not the cost of travel), those details should be stated briefly. When an overseas visit was arranged by a registered All-Party or parliamentary group or by a party backbench group, it is not sufficient to name the group as the sponsor of the visit: the government, organisation, or person ultimately meeting the cost should be specified.

69. The following categories of visit, together with any hospitality associated with such a visit and available to all participants, are exempt from registration:

- Visits which are paid for by, or which are undertaken on behalf of, Her Majesty’s Government, or which are made on behalf of an international organisation of which the United Kingdom Government is a Member;
- Visits abroad with, or on behalf of, a Select Committee of the House including a Joint Committee;

- Visits undertaken on behalf of, or under the auspices of, the Commonwealth Parliamentary Association, the Inter-Parliamentary Union, the British-Irish Parliamentary Assembly, the British American Parliamentary Group, the Council of Europe, the Western European Union, the Westminster Foundation for Democracy, the NATO Parliamentary Assembly or the OSCE Parliamentary Assembly;
- Peers' Representative Travel, paid for by the House of Lords Overseas Office;
- Official travel by the Lord Speaker or her representative;
- Visits to European Union parliaments and institutions paid for by the House on the authority of the Clerk of the Parliaments;
- Visits arranged and paid for wholly by a political party;
- Visits paid for wholly by an institution of the European Union or by a political group of the European Parliament.

70. Visits which are unconnected with membership of the House (e.g. those made as part of the Member's employment or profession), or the cost of which does not exceed £500 in value, are also exempt from registration.

71. An entry made in this category will remain on the Register for a period of one year from the date on which the visit was made.

#### *Category 8: Gifts, benefits and hospitality*

*Any gift to the Member or the Member's spouse or partner, or any other material benefit, of a value greater than £500, from any company, organisation or person, within the UK or overseas, which relates substantially to membership of the House.*

72. Any gift, or other benefit, which relates substantially to membership of the House and which is either given free of charge, or provided at a cost below that generally available to Members of the public, should be registered whenever the value or potential value of the gift or benefit is greater than £500, unless the Member gives the gift to charity within the period required for registration. Benefits include loans, tickets to cultural and sporting events, hospitality, travel and accommodation upgrades. The date of receipt should also be registered. A gift or benefit available to all Members is nonetheless registrable.

73. Gifts and other benefits from the same source in the course of a calendar year the gift of which depended substantially on membership of the House and which cumulatively are of a value greater than £500 should be registered, even if each single gift or benefit is of lesser value.

74. Hospitality provided by Her Majesty's Government, any of the devolved institutions in Scotland, Wales or Northern Ireland, the Greater London Authority, local authorities, non-departmental public bodies or health authorities, is exempt from registration.

75. Gifts and material benefits that do not relate substantially to membership of the House are exempt from registration.

76. Gifts and material benefits should be registered within one month of receipt; the entry will remain on the Register for a period of one year from the date of receipt.

77. Gifts received by the Lord Speaker in connection with the performance of her public duties are registered separately, irrespective of value, in a register maintained by her Private Office.

*Category 9: Miscellaneous financial interests*

*Any relevant financial interest not falling within one of the above categories, but which might be thought by a reasonable Member of the public to influence a Member's parliamentary conduct.*

78. The purpose of this category is to enable Members to enter in the Register any financial interests of a value greater than £500 that they consider to be relevant, but which do not obviously fall within any of the other categories. The advice of the Registrar should be sought before entering any interest in this category.

*Category 10: Non-financial interests*

79. Certain non-financial interests may reasonably be thought to affect the way Members of the House of Lords discharge their public duties, and must therefore be registered in this category. The following non-financial interests are always relevant and therefore must be registered:

- a. Unremunerated directorships or other regular employment;
- b. Membership of public bodies such as hospital trusts, the governing bodies of universities, colleges or schools, local authorities and other spheres of government;
- c. Trusteeships of museums, galleries or similar bodies;
- d. Acting as an office-holder or trustee in pressure groups or trade unions;  
and
- e. Acting as an office-holder or trustee in voluntary or not-for-profit organisations.

80. Other non-financial interests are not normally registered, though it may be necessary in certain circumstances to declare them. Such interests include: other trusteeships, for example of private estates; unpaid ordinary membership of voluntary organisations or pressure groups; membership of Churches or other religious bodies or organisations. The Registrar is available to advise Members in cases of uncertainty.

81. The following posts should not be registered: honorary fellowships in colleges and universities; offices in political parties; patrons; *ex officio* positions in voluntary organisations (for instance, those held by the Lords Spiritual). There may however be occasions on which such interests should be declared.

**Declaration of interests**

82. The Code of Conduct states that Members must “declare when speaking in the House, or communicating with ministers or public servants, any interest which is a relevant interest in the context of the debate or the matter under discussion.”

83. This provision should be interpreted broadly. Thus “speaking in the House” covers Members’ participation in the work of Select Committees of the House. “Public servants” includes servants of the Crown, civil servants, employees of government agencies or non-departmental public bodies, and Members, officers and employees of local authorities or other governmental bodies.

84. However, the provision should also be read in the context of paragraph 3(a) of the Code, which states that “the Code does not extend to Members’ performance of duties unrelated to parliamentary proceedings, or to their private lives”. Where a Member writes to a Minister or other public servant in a private capacity, about matters unrelated to public policy or to parliamentary proceedings, no declaration is required.

#### *Differences between registration and declaration*

85. The House has two distinct but related methods for the disclosure of the relevant interests of its Members: registration of interests in a Register which is open for public inspection; and declaration of interest in the course of debate in the House and in other contexts (for instance, when communicating with ministers). The main purpose of the Register is to give public notification on a continuing basis of those interests held by Members that might reasonably be thought to have a general influence upon their parliamentary conduct or actions. The main purpose of declaration of interest is to ensure that fellow Members of the House, ministers, officials and the public are made aware, at the point at which the Member participates in proceedings of the House or otherwise acts in a parliamentary capacity, of any present or expected future interest that might reasonably be thought relevant to that particular action by the Member.

86. Thus declaration, like registration, is compulsory. Moreover, given the wide range of issues that may be the subject of debate, the duties imposed upon Members in respect of declaration are in some respects broader than those in respect of registration. However, whereas Members are required by the Code of Conduct to publish all interests that might be thought to have a general influence upon their conduct in the Register, Members are under no obligation to speak in the House, or to communicate with Ministers or public servants. Thus the duty to declare relevant interests, while it is broader than the duty of registration, is ultimately subject to the Member’s decision to speak in a debate or write to a Minister or public servant.

#### *Form of declaration*

87. Members should declare interests briefly, usually at the beginning of their speech. Declarations should wherever possible be comprehensible, specific, and unambiguous, without either demanding prior knowledge of their audience or requiring reference to other documents. Members should not normally make a declaration simply by referring to “my interests which are published in the Register”.

88. An exception to the rule in the preceding paragraph may be made at Oral Questions or other time-limited proceedings, where it may be for the convenience of the House that Members should not take up time by making lengthy or repeated declarations of interest. On such occasions a brief reference to the published Register may be appropriate, but this only suffices for registered interests.

89. Members should not take up the time of the House, particularly during time-limited proceedings, by declaring trivial, frivolous or irrelevant interests. They should bear in mind that the test of relevance is “whether the interest might be thought by a reasonable Member of the public to influence the way in which a Member of the House of Lords discharges his or her parliamentary duties” (Code, paragraph 11). The test for whether to declare is that set by the Code of Conduct and this Guide and not what other Members declare in debate.

90. The subject-matter against which the relevance of an interest must be judged is normally the item of business as it appears on the Order Paper. Thus in the case of a bill, the subject-matter is the bill as a whole. A full declaration of any interests relevant to a bill should be made at least on the occasion of the Member's first intervention at each stage of the bill's progress. Repetition of declarations of interest within Committee and Report stage is unnecessary. There may however be circumstances in which a further declaration is appropriate, for example if an interest which is tangential to the bill as a whole nevertheless has a strong relevance to a particular amendment.

### *Potential or future interests*

91. For the purposes of declaration of interests, relevant interests include future interests, that is to say interests where a Member's expectation has passed beyond vague hope or aspiration and reached the stage where there is a clear prospect that the interest will shortly arise.

### **Select Committees**

92. A Member serving on a Select Committee should declare any interests relevant to an inquiry or any other activity undertaken by that Committee. The declaration should be made in writing to the committee clerk, and orally the first time the Member speaks in public in the inquiry. A list of declared relevant interests is also published as an appendix to the Committee's report.

93. The principles governing participation, described in paragraphs 11–14 above, apply also to participation in the work of Select Committees. Members should consider carefully whether to take part in an inquiry if they have a direct, relevant, financial interest which goes to the heart of the subject of the inquiry.

94. Further advice on Select Committee work should be sought from the Committee Clerk in the first instance.

### **Written notices**

95. Members are required to draw attention to the existence of a relevant registered interest when tabling the following types of business:

- Questions (for oral answer, written answer or for short debate);
- Motions (including amendments to motions).

96. The responsibility for drawing attention to any relevant registered interest rests with the Member concerned:

- The Member must notify the staff of the Table Office of any relevant registered interest before tabling any item of business;
- If the Member has such an interest, he or she must also specify which registered interest is affected.

97. When such an interest exists, the symbol “[I]” is printed after the Member's name in *House of Lords Business*. The Table Office then arranges for the publication of the interest by means of the online version of *House of Lords Business*.

98. If a Member has a registrable interest which is yet to be registered, and wishes to table business to which that interest is relevant, the Member should register the

interest before tabling the business<sup>6</sup>, so that it appears in the online Register of Lords' Interests in advance of publication of *House of Lords Business*.

99. An indication in *House of Lords Business* and on the Order Paper of the existence of a relevant registered interest does not affect a Member's duty to declare relevant interests orally, for instance when asking an oral question or moving a motion in the House or in Grand Committee.

### Financial support

100. Members of the House may claim a daily fee for attendance and a number of reimbursement expenses to support them in their parliamentary work. The House Committee is responsible for proposing rules on the financial support available to Members, which are reported to and agreed by the House. The available support and the rules relating to the scheme are set out in the *General guide to the Members' reimbursement scheme*<sup>7</sup>. Paragraph 10(c) of the Code of Conduct states that Members shall "act in accordance with any rules agreed by the House in respect of financial support for Members". A breach of such rules therefore constitutes a breach of the Code of Conduct and could lead to an investigation by the House of Lords Commissioner for Standards. The Finance Director is responsible for the administration of the scheme. Any Member may seek the written advice of the Finance Director before determining what use to make of the scheme. The responsibility for deciding what use to make of the scheme rests with the Member concerned.

### Use of facilities and services

101. The House provides various facilities and services for Members, most of which are paid for in full or subsidised by the public purse. These facilities and services are provided primarily to support Members in their parliamentary work. The domestic committees are responsible for proposing rules on the use of facilities by Members, and the key ones are reported to and agreed by the House. Paragraph 10(c) of the Code of Conduct states that Members shall "act in accordance with any rules agreed by the House in respect of ... the facilities of the House". A breach of such rules therefore constitutes a breach of the Code of Conduct and could lead to an investigation by the House of Lords Commissioner for Standards. The rules on the use of facilities which have been agreed by the House are set out in two House Committee reports<sup>8</sup> which are appended to the *Handbook on facilities and services for Members*. These reports also identify which official is responsible for the provision of each facility or service; a Member who acts on the advice of that official in determining what use to make of a facility satisfies fully the requirements of the Code of Conduct in that regard.

### Enforcement

102. The House of Lords is self-regulating and it is desirable for any Member who considers that another Member may be in breach of the Code promptly to draw it to the attention of the Member concerned.

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<sup>6</sup> See paragraph 36 above.

<sup>7</sup> This reference will be updated to take account of the implementation of the report from the Review Body on Senior Salaries (Cm 7746), the principle of which the House adopted by resolution on 14 December 2009.

<sup>8</sup> House Committee, *Refreshment Department Functions* (3rd Report, session 2008–09, HL Paper 144) and *Rules Governing the Use of Facilities* (2nd Report, session 2009–10, HL paper 47).

### *The House of Lords Commissioner for Standards*

103. The House of Lords Commissioner for Standards may investigate alleged breaches of the Code, the rules governing Members' financial support and the rules governing the use of parliamentary facilities and services. A complaint made by a third party is the usual basis for the Commissioner to start an investigation. In exceptional circumstances however, and with the agreement of the Sub-Committee on Lords' Conduct, he may start an investigation in the absence of a complaint, either at the request of the Member concerned, or if by other means he becomes aware of evidence sufficient to establish a *prima facie* case that the Code of Conduct has been breached.

### *Making a complaint*

104. If the complainant is a Member of the House of Lords, the complaint should be raised in the first instance with the Member complained against, or otherwise with that Member's party Leader or Chief Whip, or with the Convenor of the Crossbench Peers. Non-Members wishing to make a complaint should normally first make their dissatisfaction known to the Member concerned and give the Member an opportunity to respond.

105. Any complaint alleging that a Member of the House of Lords has breached the Code of Conduct, whether made by another Member of the House of Lords or by someone outside the House, should be sent in writing to:

The House of Lords Commissioner for Standards

House of Lords

London SW1A 0PW

106. Complaints submitted by telephone or email will not be considered; the complainant should give a postal address, telephone number and, if available, email address for subsequent communication. The complainant must make clear in what respect the Member may have breached the Code of Conduct and must supply as much evidence as the complainant can in support of the complaint.

107. In the interests of natural justice, the specific allegation should be made to the Commissioner in private and not publicised until the complaint has been finally determined.

### *Preliminary assessment*

108. The Commissioner conducts a preliminary assessment of all complaints. The Commissioner will not without good reason consider either anonymous complaints or ones where the complainant is not prepared to have his name and complaint disclosed to the Member whose conduct is criticised. He screens out complaints which fall outside the scope of the Code. He may choose not to consider complaints which are clearly trivial or vexatious, or which substantially repeat allegations which have already been the subject of inquiry (unless there is significant fresh evidence in their support). In making his preliminary assessment, the Commissioner considers the criteria set out in the following two paragraphs.

109. Matters falling within the Commissioner's remit include:

- failure to register relevant interests;
- failure to declare relevant interests in the course of parliamentary business including committee proceedings;

- breach of the rules on financial inducements and parliamentary influence and on paid advocacy;
- breach of the rules on the use of facilities and services and on financial support; and
- failure by Members' staff to declare relevant interests in the Register of Lords' Staff Interests.

110. Matters not falling within the Commissioner's remit include:

- policy matters or a Member's views or opinions;
- the funding of political parties;
- alleged breaches of the separate code governing the conduct of Government Ministers as Ministers; and
- Members' non-parliamentary activities.

111. The complaint must be made within four years of the conduct complained of. The complaint must also be supported by evidence sufficient to establish a *prima facie* case that the Code has been breached.

112. The police and other agencies investigate allegations of criminal misconduct and the Commissioner will not investigate any related allegation of a breach of the Code while the agency is conducting its own investigation. The same suspension of investigation applies while related proceedings (for instance, an action for defamation) are before a court of law.

113. Following his preliminary assessment, the Commissioner informs both the complainant and the Member concerned whether or not he will investigate the complaint. If he has decided that the complaint does not merit investigation, he provides the complainant with a brief explanation of his reasons for dismissing the complaint.

*The investigation: procedural safeguards*

114. The Code of Conduct states that "In investigating and adjudicating allegations of non-compliance with this Code, the Commissioner, the Sub-Committee on Lords' Conduct and the Committee for Privileges and Conduct shall act in accordance with the principles of natural justice and fairness".

115. Proceedings are not adversarial, but inquisitorial in character. The Commissioner is an independent and impartial investigator, appointed by the House, whose task is to establish the facts of a case and report these, along with his conclusions as to whether or not there has been a breach of the Code, to the Sub-Committee on Lords' Conduct.

116. The Member has a right of appeal from the Commissioner and Sub-Committee, first to the Committee for Privileges and Conduct and then to the House. The complainant has no right of appeal.

117. Members are expected to co-operate with any investigation into their conduct. They should supply written evidence as requested, and in their own name. Letters sent on their behalf by legal advisers or others will be disregarded. They may be accompanied to any meeting by a colleague, friend or legal adviser, but every effort is made to keep proceedings informal, and there is no expectation that they should be so accompanied. If they choose to bring a colleague, friend or adviser, they are free to consult him or her off the record, but will be expected to

answer for themselves (and not through the friend or adviser) any question put to them.

118. The complainant has no formal *locus* once an investigation is under way: he has no right to be called as a witness, though he is expected to co-operate with any investigation and to supply all the evidence in his possession when asked to do so. Nor do Members accused of misconduct have any entitlement to cross-examine complainants, though they are given an opportunity to review and, if they so wish, challenge the factual basis of any evidence supplied by complainants or others.

119. The civil standard of proof is adopted at all stages in the enforcement process, not only by the Commissioner, but by the Sub-Committee on Lords' Conduct and the Committee for Privileges and Conduct. Thus, in order to find against a Member, the Commissioner will require at least that the allegation is proved on the balance of probabilities.

### *Parliamentary privilege*

120. The Commissioner is an officer of the House of Lords and parliamentary privilege extends to him in carrying out his duties. It also extends to witnesses and parties to his investigations. A complaint is however not regarded as covered by parliamentary privilege unless and until the Commissioner has decided to undertake an investigation.

121. From the point that the Commissioner decides to undertake an investigation all evidence and correspondence relating directly to the inquiry is covered by parliamentary privilege. It must remain confidential unless and until it is published by the Committee for Privileges and Conduct. If such evidence or correspondence were to be published or disclosed to anyone else without the Committee's agreement, this would be a contempt of the House. An attempt to obstruct an investigation is a contempt of the House.

### *The investigation: process*

122. The Commissioner first informs the Member concerned of the nature of the complaint and provides copies of the evidence offered in support of it. He sets out the particular provisions of the Code that appear, either on the basis of the complaint, or his preliminary assessment of the facts, to have been breached, at the same time inviting the Member to respond in writing with a full and accurate account of the matters in question.

123. After considering the Member's written submission, the Commissioner may decide either to dismiss the complaint, or to agree remedial action with the Member. Remedial action may be agreed if the complaint, though justified, is minor and is acknowledged by the Member concerned. Remedial action involves "putting the record straight", for instance by making an amendment to the Register; the Member will also normally be expected to make a formal apology, either in writing or by means of a personal statement in the House. If the Commissioner and Member agree remedial action, the Commissioner reports the circumstances and remedial action to the Sub-Committee on Lords' Conduct. The Commissioner informs the complainant of the action taken in response to the complaint.

124. If the Member's written response is not sufficient to enable the Commissioner either to dismiss the complaint or agree remedial action, the Commissioner may pursue the investigation by seeking further information, either from the Member concerned or others, including the original complainant, third

parties, or public or private bodies. Such information is usually requested in writing in the first instance, though in some circumstances the Commissioner may decide to interview witnesses, either informally or by means of formal oral evidence. The Commissioner holds his meetings with witnesses in private. In the case of informal interviews, a note is made of the meeting and all parties are subsequently asked to confirm its accuracy. In the case of formal oral evidence, a full transcript is taken. The Committee for Privileges and Conduct decides to what extent evidence is published.

125. The Committee for Privileges and Conduct and its Sub-Committee on Lords' Conduct have the power to send for persons, papers and records and may exercise this power as necessary in support of any investigation by the Commissioner.

### *Assessing the evidence*

126. If the Commissioner's investigation has uncovered material evidence that is at variance with the Member's version of events, he will put this to the Member, who will have a chance to challenge it. Before finalising his report, the Commissioner will also share with the Member a draft of those parts of his report dealing with issues of fact, so that the Member has an opportunity to comment on it.

127. If, having considered the Member's comments, the Commissioner considers that there remain significant contested issues of fact, he will prepare his own account of the facts of the case, while drawing the attention of the Sub-Committee to those points which are contested.

128. The Commissioner reports his findings to the Sub-Committee, usually in the following form:

- summary of the initial complaint, and of the relevant elements of the Code of Conduct;
- brief account of the key facts in the case, with references to evidence as appropriate, and with any contested points of fact highlighted;
- his findings with reasons as to whether or not the Code has been breached; and
- any evidence, written and oral.

### *Consideration by the Sub-Committee on Lords' Conduct*

129. The Sub-Committee considers the Commissioner's report and must report it without amendment to the Committee for Privileges. The Sub-Committee, in its report, may comment on the Commissioner's report and on the case. If the Commissioner dismisses the complaint, the Sub-Committee reports his findings to the Committee for Privileges. If the Commissioner finds that there has been a breach of the Code, the task of the Sub-Committee is to recommend any appropriate action that the Member should take to regularise the position (including repayment of money) and any sanction that the House should apply.

130. In the case of a breach of the Code, the options available to the Sub-Committee in its report to the Committee for Privileges and Conduct include:

- That the Code has been breached but that no action or sanction is appropriate. Where the Member concerned has volunteered appropriate remedial action (such as corrected disclosure or a personal apology to the House), the Sub-Committee may report to the Committee for Privileges

and Conduct that it sees no need for the matter to be reported to the House because the remedial action itself involves public acknowledgement of the mistake.

- That the Code has been breached; that the Member's conduct should be drawn to the attention of the House in a report from the Committee for Privileges and Conduct; and, where appropriate, that the Committee for Privileges and Conduct should recommend to the House that the Member be required to take action to regularise the position.
- That the Code has been breached and that the Committee for Privileges and Conduct should recommend to the House that the Member be suspended from the House for a specified period of time not longer than the remainder of the current Parliament<sup>9</sup>.

#### *Report to the Committee for Privileges and Conduct and appeal*

131. The Sub-Committee makes its report and that of the Commissioner to the Committee for Privileges and Conduct. At the same time as the report is made to the Committee for Privileges and Conduct, a copy is sent to the Member concerned, who is informed of the deadline by which he may lodge an appeal to the Committee for Privileges and Conduct if the complaint has been upheld.

132. If the Member does not appeal to the Committee for Privileges and Conduct in the event of a complaint being upheld, the Committee reports forthwith to the House in the terms recommended by the Sub-Committee and may agree to do so by correspondence. If the Member wishes to appeal, the Member must do so in writing, setting out the grounds for the appeal, and enclosing such supporting material as the Member thinks appropriate. The appeal may be against either the Commissioner's finding of a breach of the Code, or the recommended sanction. A meeting will be scheduled to hear the appeal, and the Member will be given an opportunity to appear in person, if he or she so wishes. The Committee may also take evidence from the Commissioner.

133. On appeal, the Committee will not reopen the Commissioner's investigation. Rather members of the Committee will use their judgment to decide whether, on the balance of probabilities, they endorse the conclusions of the Commissioner; they will also consider whether or not the recommended sanction is appropriate.

#### *Report to the House*

134. Where a complaint is not upheld, the Committee for Privileges and Conduct has discretion as to whether to report to the House. When the Committee does not report to the House, it informs the complainant and Member of the outcome of the complaint.

135. Where a complaint is upheld, the Committee for Privileges and Conduct normally reports to the House (though it may decide not to make a report to the House in minor cases, where the Member concerned has volunteered appropriate remedial action). The Committee must seek the agreement of the House in any case where it is proposed that a Member be required to take action to regularise the position or that the Member be sanctioned by suspension.

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<sup>9</sup> See *The powers of the House of Lords in respect of its Members*, Committee for Privileges, First Report (2008-09), HL Paper 87; agreed to by the House on 20 May 2009

136. In all cases where there has been an appeal to the Committee for Privileges and Conduct, the Committee will publish a report either upholding or dismissing the appeal. The reports from the Commissioner and Sub-Committee are annexed to the Committee's report.

137. When the Committee reports to the House, the Committee Clerk should show the Member the report shortly before publication and send the complainant the report on publication.