

Committee on Standards in Public Life

Standards of Conduct in the House of Commons



Summary of
Eighth Report

SUMMARY

1 The Committee on Standards in Public Life was set up in October 1994 by the then Prime Minister in response to public concerns about standards in public life. It was given wide-ranging terms of reference to examine current concerns about standards of conduct of all holders of public office. Since then the Committee has considered standards of conduct in the House of Commons on two separate occasions: first in 1995¹ when it proposed the introduction of a Code of Conduct for MPs, the tightening of the rules on the registration of interests by MPs and the creation of the office of Parliamentary Commissioner for Standards; and then in 2000² when it reviewed those arrangements.

2 In September 2001 the Committee announced that it would review in due course the implementation of all its reports. Shortly afterwards, the House of Commons Commission announced that the three year appointment of the then Parliamentary Commissioner for Standards, Ms Elizabeth Filkin would cease in February 2002 and that there would be an open competition to fill the post. In December 2001 the Committee announced its intention to begin its promised review of each of its reports by turning first to the system for regulating standards of conduct in the House of Commons.

The Eighth Report

3 Over the last ten months this Committee has carried out a thorough process of consultation and analysis, taking oral evidence from some 64 witnesses and receiving nearly 70 written responses to the consultation paper. Comparative research was also commissioned from the Constitution Unit at University College London to consider the regulation of Parliamentary standards in Scotland, Wales, Northern Ireland, Australia, Canada and Ireland.³ The Eighth Report⁴ sets out the Committee's findings in full. This summary

provides an overview of the main elements of the report.

Overview

4 We believe that standards in the House of Commons are generally high; the overwhelming majority of members seek to, and in practice do, uphold high standards of propriety. The system put in place after 1996 has largely eradicated the problem of paid advocacy and most alleged breaches now concern a failure to declare or register interests. Nevertheless, although statistically very few, serious cases of misconduct do arise, and can lead to a disproportionate loss of public confidence in the House of Commons as an institution. Moreover the progress to a high level of conduct can be seriously undermined if the question of public perception is not carefully addressed. The Rt Hon Baroness Boothroyd, a former Speaker of the House, put the point strongly:

*I am concerned about the public's perception of Members of Parliament ... One only has to have one or two bad apples in a barrel and the public think that everybody is tainted with that same disease.*⁵

5 We have set out in the report our belief that the current system for regulating standards of conduct has fallen short of delivering confidence in certain respects. In particular, we have been concerned by the considerable lack of clarity and by the perception that some elements of the system may be overly sensitive to external interests or pressures.

6 We identified two objectives which the system of regulation must meet:

- **delivering public confidence in the House; while**
- **carrying the confidence of the House itself.**

¹ Committee on Standards in Public Life, First Report, Cm 2850.

² Committee on Standards in Public Life, Sixth Report, Reinforcing Standards, Cm 4557.

³ *The Regulation of Parliamentary Standards – A Comparative Perspective* by Oonagh Gay (available on the CD-ROM which forms part of the Eighth Report).

⁴ Cm 5663. Copies are available from The Stationery Office and can also be accessed via the TSO Internet site: <http://www.official-documents.co.uk/> or through the Committee Internet site: <http://www.public-standards.gov.uk>.

⁵ Oral evidence, Day 5, am. (All oral and written evidence referred to is available on the CD-ROM which forms part of the Eighth Report.)

We believe a number of key changes are needed to the current system if it is to meet these objectives. We see the two objectives as mutually reinforcing; both for the public and for MPs it is crucial that the system for regulating standards of conduct is clear and impartial, and perceived to be so.

- 7 We have been aware throughout this inquiry of the direction in which systems for regulating standards of conduct in organisations outside the House are being developed. This was described by Lord Nicholls of Birkenhead⁶ as the “*ongoing march of outside participation in disciplinary and regulatory processes*”. As a result, he concluded that, “*the public feels that self-regulation is not 100 per cent reliable*”.⁷
- 8 It is natural that the public should compare the regulatory processes in the primary political institution of the country, the House of Commons, with those of outside organisations. We expect that the “*ongoing march*” will continue and there may come a time when fundamental change becomes necessary. In the words of David Heath MP, a member of the Committee on Standards and Privileges:

*It may be that radical surgery, at some stage, is required in order to ensure that confidence is maintained. My view, for what it is worth, is that at the moment that radical surgery is not justified, but I am open to persuasion that unless we see a growing confidence in the system at some stage, then it will be required.*⁸

Such fundamental change could include putting the system for regulating standards of conduct in the House on a statutory basis and introducing external members into the decision-making process.

- 9 However, we are of the view that alternative methods of strengthening the current system are preferable at this stage. We have identified five overall characteristics which are necessary for an effective system of self-regulation. The package of recommendations we have developed is founded on these characteristics:
- **an independent or an external element or both;**

- **clarity and transparency;**
- **fairness to those being regulated;**
- **the right cultural outlook;**
- **the responsibility of leadership.**

Our recommendations are listed in full at the end of this summary. The following paragraphs set out our main areas of emphasis.

- 10 The post of Parliamentary Commissioner for Standards was recommended by this Committee in 1995 as a response to a recognised need for an independent element in the system. We consider that the ability of the Commissioner to carry out his or her responsibilities independently needs now to be underpinned and clearly identified. The House itself noted in 1995 that it “*might wish to return to it [the status of the Commissioner’s post] in the light of practical experience at some future time*”.⁹ To this end we have made specific recommendations (R20-26) about the Commissioner’s status, tenure, appointment, powers and resources.
- 11 Seven years after our original proposal for a Commissioner, we are also of the view that, to deliver public confidence now, the post of Commissioner alone is an insufficient representation of **an independent or external element** in the House’s system of regulation.
- 12 We have therefore recommended three measures. First, in recommending an Investigatory Panel for serious and contested cases (referred to in para 14 below), we have recommended that it should have an independent Chair who is external to the House. Second, we have recommended that the Committee on Standards and Privileges should draw on external legal advice when it decides on the more serious cases. Third, we have recommended that the Committee on Standards and Privileges should seek the views of relevant external organisations when it reviews the Code of Conduct for MPs (which we are recommending should occur in every Parliament). Taken together our recommendations would introduce an external element at every stage of the process (development of standards of conduct, investigation and adjudication of complaints).

⁶ Lord Nicholls is a Lord of Appeal in Ordinary and was Chairman of the Joint Committee on Parliamentary Privilege which reported in 1999.

⁷ Day 6, pm.

⁸ Day 3, pm.

⁹ Select Committee on Standards in Public Life, First Report, HC 637, para 10.

- 13 We have remarked on the lack of clarity in the current system and many of our recommendations are intended to introduce **clarity and transparency**. In particular, we have looked at the status of the Commissioner's findings and the status of the Committee on Standards and Privileges itself. The Committee is the pivotal player in the system of regulation in the House. But we believe that its role has been insufficiently defined and its status needs greater emphasis. We have made a number of specific recommendations to this effect. In particular, we recommend that the Committee should take evidence in public and should explain in full its reasons for a decision.
- 14 It is of fundamental importance that **those subject to a system of regulation should regard it as fair**. We have identified in the report the concerns expressed by witnesses, including MPs, that the current system is vulnerable to the criticism that it is neither fair nor impartial. The inability of the current process to offer an MP the chance to call and cross-examine witnesses is a serious weakness and one which damages the suitability of the process to handle serious, contested cases. We have recommended an Investigatory Panel to deal with such cases, undertaking the specific task of cross-examination of evidence but reserving the final adjudication to the Committee on Standards and Privileges.
- 15 We have also been considerably troubled by the perception that there were occasions in the past when the Committee on Standards and Privileges was overly sensitive to interests and pressures external to the Committee, especially in cases involving Ministers. It is not our purpose to review the rights and wrongs of such cases. But we believe that such perceptions may always arise while the Committee on Standards and Privileges reflects the party balance in the House. We have recommended, therefore, that no party should have an overall majority on the Committee and that, in line with the practice for departmental select committees, Parliamentary Private Secretaries should not be members of the Committee. We have also recommended that the Committee should be composed of a majority of members with senior standing in the House and that the Chairman should continue to be drawn from the Opposition parties. Taken together, these recommendations will reinforce and distinguish the unique position of the Committee so that it commands the respect of the whole House.
- 16 A number of the recommendations already mentioned are intended to contribute to a positive **cultural outlook**. Culture is as much a matter of perception as it is of practice. We believe that the current system is vulnerable to the charge that *"to the observer, the emphasis is still upon defending the ancient traditions of the House, defending the rights of members, defending the principle of self-regulation"*.¹⁰ The development of a clearer, demonstrably fair and impartial system, combined with the ready co-operation of all those regulated by it, will both create and reinforce the right cultural outlook. Sir Donald Irvine, in speaking of the medical profession, said, *"Where we need to get to, of course, is that people in practice see this as a positive enhancement of their professionalism, rather than an imposed duty from outside"*.¹¹ In essence, all MPs should – and should feel able to – feel the same.
- 17 Finally, all those involved in the Commons' system of regulation – individual MPs, the House, the Government of the day, the political parties, the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards – share responsibility for its effective operation and for the way in which it is perceived by the public. The actions of one will contribute to the confidence of another in the system and their degree of co-operation with it. This is **the responsibility of leadership** and, as one of the Seven Principles of Public Life, it is a feature of both the MPs' and the Ministerial Codes.
- 18 We believe that adoption of the measures that we have recommended will enable the House to maintain, and enhance in these challenging times, the highest standards of conducts which are so essential for the institution at the heart of our constitution.

¹⁰ Brian Taylor, Political Editor, BBC Scotland, Day 4, am.

¹¹ Day 7, pm.

LIST OF RECOMMENDATIONS

Chapter 4: Establishing and promulgating standards

Whatever the mechanisms and procedures for enforcing systems of regulation, they are likely to fail if the 'culture' of the public institution does not support the highest standards of propriety. We understand culture to mean the values, attitudes and beliefs of MPs. We see three key aspects to maintaining the desired culture:

- a clear statement of the expected values;
- effective promulgation of those values through education and training to ensure that they inform and influence the attitudes and beliefs of Members;
- having processes in place which demonstrate those values.

R1 (a) In each Parliament, the Parliamentary Commissioner for Standards should initiate a review of the Code of Conduct and Guide to the Rules.

(b) The Parliamentary Commissioner for Standards should recommend any amendments to the Code and the Guide to the Committee on Standards and Privileges.

(c) The Committee on Standards and Privileges should consult on amendments to the Code and the Guide with relevant external bodies.

(d) Following this consultation, the Committee on Standards and Privileges should recommend any amendments to the Code and the Guide to the House.

(e) The House of Commons should debate the recommendations of the Committee on Standards and Privileges in a timely fashion.

R2 The Parliamentary Commissioner for Standards should periodically review, in conjunction with the House authorities and the Whips, the effectiveness of the provision for training and guidance on standards of conduct.

R3 The Parliamentary Commissioner for Standards should ensure that there are effective means in place to inform all MPs of changes to the Code or Guide.

Chapter 5: The role of the Parliamentary Commissioner for Standards in investigating complaints

However strong the culture supporting the maintenance of high standards of conduct and however honourable the overwhelming majority of Members of the House of Commons, there will, from time to time, be lapses, or allegations of lapses.

The responsibility of the Commissioner for investigating allegations of breaches of the Code is only part of the role, and it affects only a small minority of members. But it is, by far, the most public aspect; allegations of breaches are usually regarded as newsworthy by the media and the Commissioner's role, as the independent investigator, naturally attracts attention.

R4 It should be made clear that it is the responsibility of the Parliamentary Commissioner for Standards to notify the MP at the earliest possible stage of each relevant part of the Code of Conduct which it is alleged has been breached.

R5 It should be an explicit requirement of the Code of Conduct that Members must co-operate with any investigation, at all stages.

R6 It should be an explicit requirement of the Ministerial Code that Members who are Ministers must co-operate with any investigation, at all stages.

R7 The Guide to the Rules should be amended to set out clearly the means by which the Committee on Standards and Privileges would deal with frivolous or vexatious complaints.

R8 It should be made clear that the role of the Commissioner as an investigator is to report the

facts as he/she has found them and, wherever possible, offer his/her own conclusion on whether the Code has been breached.

R9 The role of the Commissioner in the rectification procedure should be set out clearly.

Chapter 6: The role of the Committee on Standards and Privileges in reaching a decision on a complaint

The Committee's role lies at the heart of the self-regulatory process. In its role as the arbiter of whether or not a complaint has been proved and of what sanction is to be recommended, it is the embodiment of self-regulation: Members judging the propriety of other Members' conduct.

There are several reasons why the Committee on Standards and Privileges has such an important role. First, it should play a central role in establishing the culture of ethical behaviour. Second, the decisions of the Committee can have a major effect on the career of any Member under scrutiny. Third, it must, through making clear, consistent and impartial decisions, secure public confidence in the self-regulatory process.

R10 The role of the Committee on Standards and Privileges should be set out fully.

R11 The Committee should be required to set out in full the reasons for its decisions.

R12 (a) The House should establish an Investigatory Panel to handle serious, contested cases.

(b) The Investigatory Panel should comprise an independent legal Chair from outside the House and two MPs of substantial seniority drawn from different parties and who are not members of the Committee on Standards and Privileges.

(c) The Chair of the Investigatory Panel and the pool of MPs from which the two other Panel members will be drawn should be identified at the beginning of each Parliament.

(d) The Committee on Standards and Privileges should refer to the Investigatory Panel any cases involving disputed and significant issues of fact where the Member would face a serious penalty in the event of the complaint being found to be proved.

(e) An MP whose case is being considered by the Panel should have the right (i) to call and examine witnesses and (ii) to receive reasonable financial assistance for legal advice and representation.

(f) The Investigatory Panel should be able to appoint Counsel who could cross-examine witnesses.

(g) The Investigatory Panel should reach decisions by a majority.

(h) The Investigatory Panel should report its findings on the facts that it has identified and its own conclusions on whether the Code has been breached to the Committee on Standards and Privileges.

(i) It should be for the Committee on Standards and Privileges to decide whether there has been a breach of the Code, taking account of the findings of the Investigatory Panel.

(j) The findings of the Investigatory Panel should be published as an appendix to the report of the Committee on Standards and Privileges.

R13 (a) The Investigatory Panel and the Committee on Standards and Privileges, where it takes evidence, should take evidence in public.

(b) The proceedings of the Investigatory Panel and the Committee on Standards and Privileges should not be broadcast.

R14 The House should take steps to introduce additional financial penalties without suspension as a sanction for breach of the Code of Conduct.

Chapter 7: Strengthening the position of the Committee on Standards and Privileges

We have considered whether the Committee's composition as a select committee is seen to affect its work or condition the public's perception of its work. We heard concerns that the Committee on Standards and Privileges is, or is perceived to be, overly sensitive to interests and pressures external to the Committee. In particular, it was queried whether it was realistic to rely on members of the Committee being able to operate as Committee members first and foremost regardless of party political affiliation.

R15 No one party should hold an overall majority membership of the Committee on Standards and Privileges.

R16 The Committee on Standards and Privileges should be composed of a majority of members with senior standing in the House. The Chairman should continue to be drawn from the Opposition parties. The inclusion of any recently elected Members should be based on their having relevant experience outside the House which would contribute to the work of the Committee.

R17 Parliamentary Private Secretaries should be excluded from membership of the Committee on Standards and Privileges and from membership of the Investigatory Panel.

R18 The Committee should appoint an outside legal adviser in order to assist it with its work on a regular basis.

R19 (a) It should be a requirement of the Code of Conduct that no MP shall lobby a member of the Committee on Standards and Privileges with the intention of influencing their view of a case.

(b) Until the Committee's report on a case is published, there should be an explicit requirement that no member of the Committee on Standards and Privileges should discuss the case outside Committee meetings.

(c) The recommendations at (a) and (b) should apply equally to members of the Investigatory Panel.

Chapter 8: Strengthening the position of the Commissioner

There is some confusion about both the status of the post and the Commissioner's power to investigate and report without let or hindrance. There is also some doubt about the extent to which the Commissioner can, or should, communicate with the media about his or her work. We believe that clarity in relation to the Commissioner's position is essential.

R20 The post of Parliamentary Commissioner for Standards should be clearly defined as an office-holder, appointed and paid for, but not employed, by the House.

R21 (a) The Commissioner should in future be appointed for a non-renewable fixed term.

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

R22 (a) The House should continue to appoint the Parliamentary Commissioner for Standards on a recommendation from the House of Commons Commission.

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

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

R23 (a) The Commissioner should be given direct powers equivalent to those of the Committee to call for witnesses and papers.

(b) If a witness was unwilling to comply with the Commissioner's use of these powers, the Commissioner could refer the case to the Committee on Standards and Privileges, who could then, if so minded, use its own powers.

R24 The process for setting the resources for the Commissioner's office should be transparent; the Commissioner and the Chairman of the Committee on Standards and Privileges should be involved in arriving at the budget.

R25 (a) In relation to all stages of an individual complaint, the Commissioner should confine comments to the media to the fact that a complaint has (or has not) been received, whilst making clear that the existence of a complaint does not mean that the Code has been breached.

(b) After consultation with the Committee on Standards and Privileges, the Commissioner should draw up a statement of his/her strategy towards inquiries from the media. The statement should be published and included in the annual report.

R26 The Commissioner should publish an annual report.

R27 The House should implement the following recommendations by Standing Order:

- Chapter 4: R1(a), (b), (c), (d);
- Chapter 5: R4, R8, R9;
- Chapter 6: R10, R11, R12(a), (d), (e), (f), (g), (h), (i), (j), R13;
- Chapter 7: R18, R19(b) and (c);
- Chapter 8: R20, R23, R26.

THE COMMITTEE

Terms of Reference

The then Prime Minister, the Rt Hon John Major, announced the setting up of the Committee on Standards in Public Life in the House of Commons on 25 October 1994 with the following terms of reference:

To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.

For these purposes, public office should include: Ministers, civil servants and advisers; Members of Parliament and UK Members of the European Parliament; Members and senior officers of all non-departmental public bodies and of national health service bodies; non-ministerial office holders; members and other senior officers of other bodies discharging publicly-funded functions; and elected members and senior officers of local authorities. (Hansard (HC) 25 October 1994, col 758)

The remit of the Committee excludes the investigation of individual allegations of misconduct.

On 12 November 1997 the terms of reference were extended by the Prime Minister: *“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements”.*

The Committee on Standards in Public Life has been constituted as a standing body with its members appointed for up to three years. Sir Nigel Wicks succeeded Lord Neill as Chairman on 1 March 2001. Lord Neill succeeded Lord Nolan, the Committee’s first Chairman, on 10 November 1997.

Sir Nigel Wicks GCB, CVO, CBE
Chair

Ann Abraham¹²
Professor Alice Brown
Sir Anthony Cleaver
Rita Donaghy OBE
Lord Goodhart QC

Frances Heaton
Rt Hon Lord MacGregor of Pulham Market OBE
Rabbi Julia Neuberger
Rt Hon Chris Smith MP

Copies of the Eighth Report of the Committee on Standards in Public Life: *Standards of Conduct in the House of Commons* (Cm 5663) are available from The Stationery Office, their agents and all good booksellers.

The report can also be accessed via the TSO Internet site: <http://www.official-documents.co.uk/> or through the Committee Internet site: <http://www.public-standards.gov.uk>. Further information about the Committee is also available from that site.

Additional copies of this summary may be obtained free of charge from the Committee by telephoning 0800 692 1516.

Committee on Standards in Public Life, November 2002

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¹² Ann Abraham stepped down from the Committee shortly before this report was published upon her appointment as the Parliamentary Commissioner for Administration and Health Service Commissioner for England.

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