

Mr Mark Simmonds MP: Resolution Letter

Letter to Mr David Halpin FRCS from the Commissioner, 6 March 2012

I have now completed my inquiries into the complaint which you sent me on 23 November 2011 about the declaration of a relevant interest by Mr Mark Simmonds MP.

5 In essence, your complaint was that Mr Simmonds failed to declare a relevant interest in a healthcare provider during a debate on the Health and Social Care Bill in which he took part on 31 January 2011.

I have consulted Mr Simmonds and the Registrar of Members' Financial Interests about this matter.

10 The evidence I have received from Mr Simmonds is that he did indeed intend to declare in the contribution he made to the debate on the Health and Social Care Bill on 31 January 2011 his financial interest as a paid strategic adviser to Circle Healthcare. Mr Simmonds has shown me a page from the speaking notes he used for the 31 January debate, in which he has written in manuscript at the top "Register of Member Int". But Mr Simmonds has said that, in the heat and excitement of a "very passionate and emotive debate", he must have overlooked making this declaration. His evidence is that it was an inadvertent oversight.

15 Mr Simmonds has also identified another occasion, in a debate on NHS reorganisation on 16 March 2011, when the same thing happened. His evidence is that he had intended to declare his interest, but in the heat of the debate he again inadvertently omitted to do so. I have seen the first page of his manuscript speaking note for that debate where he has written "Register" at the top of the page.

But in a later debate Mr Simmonds did in fact draw the House's attention to the Register of Members' Financial Interests. This was when he spoke during a debate on the later stages of the Bill on 6 September 2011.

20 Mr Simmonds also properly registered his financial interest arising from his role from October 2010 as strategic adviser to the healthcare provider in the Register of Members' Financial Interests. But my inquiries have identified that one quarterly payment was not registered within the required 4 weeks of it having been received. He registered it along with the subsequent quarterly payment, thus making a late registration, which is a breach of the rules of the House. Mr Simmonds has told me that this was an administrative error and that
25 he has put in place procedures in his office to ensure a similar error does not occur again.

Mr Simmonds has accepted that he was in breach of the rules of the House in failing to make the necessary declaration of his interest in his contribution to the debate on the Health and Social Care Bill on 31 January 2011. I therefore uphold your complaint. It is very unfortunate that he made the same mistake a few weeks later, but I accept these were both inadvertent errors. That conclusion is reinforced by the fact that Mr
30 Simmonds had both registered his interest and declared it in the debate in September 2011. Mr Simmonds has rectified these breaches by apologising in the House of Commons on 20 February for both of these non-declarations. Mr Simmonds has also apologised for the late registration of one of his quarterly payments. I will rectify this by identifying the late entry in the Register of Members' Financial Interests in bold italic type, with an explanatory note. This will remain on the Register for 12 months or until the next printed edition,
35 whichever is the later.

I consider that Mr Simmonds has taken the necessary action in response to your complaint and my inquiries. I now regard the matter as closed. I will report the outcome briefly to the Committee on Standards and Privileges at its next meeting. In due course, this letter and the relevant evidence will be placed on my parliamentary webpages.

40 I am copying this letter to Mr Mark Simmonds MP.

6 March 2012

Written evidence received by the Parliamentary Commissioner for Standards

1. Letter to the Commissioner from Mr David Halpin FRCS, 23 November 2011

- 5 I have established via the ironically titled 'They Work for You' web site that this MP is getting £12,500 each quarter from Circle 'Healthcare'. I have studied Hansard to see if he had declared a conflict of interest where that would be appropriate and especially in any debate on the 'Health Bill' brought forward by Mr Lansley. You will see in the attached text that he did not declare such a conflict.¹ The details of his receipt of monies is also recorded on the attachment.
- 10 I consider this to be improper [material not relevant to the inquiry]. The fact that his income from Circle Healthcare was declared in the register of interests does not absolve him. What other MPs and what citizens would know that he was earning £1,250 per hour for his 10 hours per quarter from Circle Healthcare when he stood to support the bill? I reflect too that care workers are presently under attack. We can imagine how their morale is helped when they find they are receiving 0.05 % of Mr Simmonds' reward for 'strategic advice'. Of
- 15 course, such advice might be very valuable to Circle Healthcare at this juncture as **our** NHS is dismantled.

I am aware that you are examining 'cash for influence'. This seems to be an appropriate addition to the list.

I thank for considering this serious complaint.

23 November 2011

2. Enclosure to Mr David Halpin's letter of 23 November 2011

- 20 **Mark Simmonds MP His income from Circle 'Healthcare' and his failure to disclose a conflict of interest in debate in the House of Commons.**

<http://www.parliament.uk/business/news/2011/september/health-and-social-care-bill-remaining-stages/>

He voted yes at the third reading. [Material not relevant to the inquiry]

- 25 http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110907/debtext/110907-0005.htm#column_497

He made no comments on the second and third stages. These are his only contributions in January 2011

Mark Simmonds (Boston and Skegness, Conservative)

- It is always a pleasure to follow Mr Barron. Although I did not agree with much of his speech, I strongly agree with his last point about the importance of keeping the foot on the accelerator to try to narrow health
- 30 inequalities. That is right at the top of the priorities of Health Ministers. This is a very important and complex Bill. We all want to see high-quality care and value for the taxpayer in the provision of health care. I think it is fair to say that there has never been a better-informed, more knowledgeable and better-prepared incoming Secretary of State than we have at the moment.

- 35 The opening speeches by my right hon. Friend and by the shadow Secretary of State stood in stark contrast to one another. I feel rather sorry for the shadow Secretary of State. He is clearly an intelligent man, but he is cornered by the supplicatory role that his leader is playing to the trade union movement. I am sure that the shadow Secretary of State agrees with the Government's introduction of independent treatment centres. I am sure that he also agrees with the previous Government's introduction of the independent sector into provision
- 40 and into commissioning, "any willing provider", practice-based commissioning, payment by results-although

¹ WE 2

it was payment by activity then-and national tariff ceilings within quality standard frameworks. However, he could not say so because he is cornered.

5 Listening to some Labour Members, one would think that there were no improvements to be made-that the national health service was a utopian structure prior to the last general election. Let me point to 10 things that I sketched out this morning: too much money spent on administration and bureaucracy and not enough on front-line patient care; too little patient-centric information to inform decision making; too little innovation; too little clinical input into decision making; too much inertia and hostility to reform, as we have seen today; too much process-driven target culture distorting clinical decision making; falling productivity; poor outcomes across a range of clinical indicators; too often, weak commissioning of servicing; and widening health inequalities in the past 10 years, in addition to the scandals that occurred in Staffordshire and Kent. That is hardly a situation that makes the status quo desirable.

Lee Scott (Ilford North, Conservative)

15 At the risk of being accused of management-bashing, may I point out that somebody in my own trust who worked up a deficit in excess of £100 million was rewarded with a large pay-off when he left the NHS? Can that possibly be right?

Mark Simmonds (Boston and Skegness, Conservative)

20 My hon. Friend is absolutely right. I remember him fighting tirelessly and vociferously to try to prevent those in the health service and the then Health Secretary from allowing that to happen. Another thing that Labour Members have to understand is that we must move the NHS towards being a service that is centred on the patient, not one where the patient revolves around the system. To enable that to happen, we must measure and improve outcomes on a continuing basis, and we must do it with patient-centric information that will enhance patient choice, not only about the choice of the provider and the location of their treatment, but about the treatment that they receive for their ailment. This Bill deals with all the failings that were present when the Labour party was in charge.

30 There are three or four areas where the detail still needs to be discussed, and I want to make some suggestions. There must be an opportunity for integrated care and for improved patient pathways. I would very much like acute clinicians, pharmacists and others who deliver patient care to be involved in GP consortia and the commissioning process. Some of the more forward-thinking consortia are already involving acute clinicians, and this needs to be implemented across the board. We need to find a non-prescriptive architecture to enable consortia to work together to collaborate where appropriate, not only in the all-important area of cancer, as appropriately highlighted by my hon. Friend Mr Baron, but in acute stroke services. This has been done successfully, and it must continue to be done.

35 Performance management is absolutely critical. The Bill seems to make no specific mention of out-of-hours care. My right hon. Friend the Secretary of State will remember only too clearly the terrible case of Mr Gray, who was killed by Dr Ubani, the out-of-hours doctor who flew in from Germany and prescribed him the wrong dose of a drug. That was a performance management failure. The SHA failed to monitor the PCT, which was failing to monitor the provider. We must ensure that GPs are involved in driving improvements in out-of-hours care as well as in-hours care. We need to look at GPs' contracts. It is rather perplexing that a PMS-personal medical services-contract could be held by a national commissioning board. Who will be in charge of revalidation, training and performance lists? We must move GPs' quality and outcomes framework towards one that is outcome-based rather than process-based.

Graham Stuart (Beverley and Holderness, Conservative)

45 Like my hon. Friend, I will support the Bill. Does he hope, as I do, that the Government will look very carefully at any conflicts of interest? As we rightly give the power down to clinicians, we need to ensure that they always take decisions in the interests of the patient and not for their own financial gain.

Mark Simmonds (Boston and Skegness, Conservative)

50 I entirely agree with my hon. Friend. My understanding is that the NHS commissioning board will have a significant monitoring role to ensure that GPs commission services not automatically from themselves but from providers who provide the best outcomes for the patients they are trying to look after.

5 I would like to make one final point to the ministerial team. Information is the key that will drive improvements in the NHS, and that information must be comparable, easily accessible and easily understandable in order to inform patients' decision making processes. It should not just be on the internet. We should not just wait for patients to access information—we have to find ways of taking it to them, particularly those living in socio-economically deprived areas.

The Bill is a significant step in the right direction. It preserves the best of the national health service—equality of access—while creating opportunities to improve the provision of health care in the UK, so that it can become among the best in the world, rather than lag behind. Excellence for all should be the goal.

10 Mark Simmonds Con Boston Skegness.
[Material not relevant to the inquiry]

http://www.theyworkforyou.com/mp/mark_simmonds/boston_and_skegness#register
[Material not relevant to the inquiry]

15 Strategic adviser to Circle Healthcare (social enterprise), 42 Welbeck Street, London W1.
Quarterly fee, £12,500; 10 hours per month. (Registered 12 January 2011)
March 2011, £12,500 quarterly fee received. Hours: 10 hrs per month. (Registered 3 May 2011)
June 2011, £12,500 quarterly fee received. Hours: 10 hrs per month. (Registered 3 October 2011)
September 2011, £12,500 quarterly fee received. Hours: 10 hrs per month. (Registered 3 October 2011)

20 [Material not relevant to the inquiry]

3. Letter to Mr Mark Simmonds MP from the Commissioner, 28 November 2011

25 I would welcome your help on a complaint which I have received from Mr David Halpin suggesting that you failed to declare a relevant interest when you took part in a debate in the House of Commons during the Second Reading of the Health and Social Care Bill in January 2011.

I attach a copy of the complainant's letter of 23 November, together with its supporting material.² In essence, the complaint is that you failed to declare a relevant interest in a healthcare provider during a debate on the Health and Social Care Bill in which you took part on 31 January 2011.

The Code of Conduct for Members of Parliament provides in paragraph 16 as follows:

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

35 The Guide to the Rules relating to the conduct of Members sets out in section 2 the rules in relation to the declaration of Members' interests.

These rules are based on the Resolution of the House of 22 May 1974 as follows:

40 *“In any debate or proceeding of the House or its Committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.”*

Paragraphs 74 to 76 of the Guide to the Rules give guidance on establishing the relevance of a pecuniary interest. Paragraph 74 provides:

² WE 1 and 2

5 *“It is the responsibility of the Member, having regard to the rules of the House, to judge whether a financial interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a financial interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but should make specific reference to the nature of the Member’s interest.”*

Paragraph 77 includes the following:

10 *“In a debate in the House the Member should declare an interest briefly, usually at the beginning of his or her speech. If the House is dealing with the Committee or Consideration stages of a Bill it will normally be sufficient for the Member to declare a relevant interest when speaking for the first time...”*

Your entry in the Register of Members’ Financial Interests includes the following:

“Strategic adviser to Circle Healthcare (social enterprise), 42 Welbeck Street, London W1. Quarterly fee, £12,500; 10 hours per month. (Registered 12 January 2011)”.

15 Similar entries were made on 3 May and 3 October 2011 reporting fees received and hours worked for subsequent quarters.

You contributed to the debate on the Health and Social Care Bill on 31 January. There is no record of you having declared a financial interest during that debate.

I would welcome your comments on this complaint in the light of this summary of the relevant rules. In particular, it would be helpful to know:

- 20 1. When you first took on the paid role of strategic adviser to Circle Healthcare and, if relevant, why you did so;
2. Whether you had any discussions at any time with Circle Healthcare about the Health and Social Care Bill or the Government’s health policies and, if so, what they were;
- 25 3. Whether you considered before making your contribution to the Second Reading of the Health and Social Care Bill on 31 January 2011 the need to make a declaration of your financial interest arising out of your role as strategic adviser to Circle Healthcare;
4. In the light of the rules in relation to declaration, whether you consider, on reflection, that you should have made such a declaration, together with your reasons.

Any other points you may wish to make to help me with this inquiry would be helpful.

30 I enclose a note which sets out the procedure which I follow.³ I am writing to the complainant to let him know that I have accepted his complaint. In due course I will publish on my parliamentary webpages that I am conducting this inquiry and the general category in which it comes. I will not be commenting further on its progress.

35 It would be very helpful if you could let me have a response to this letter within the next three weeks, or earlier if that is convenient. If there is any difficulty about this, or you would like a further word about the process, please contact me again at the House.

I would be most grateful for your help on this matter.

28 November 2011

³ Not included in the written evidence

4. Letter to the Commissioner from Mr Mark Simmonds MP, 5 December 2011

Thank you for your letter dated 28th November enclosing correspondence from a Mr Halpin.

5 It is quite clear from the tone and content of Mr Halpin's letter that it is both politically motivated and factually inaccurate. I very strongly resent and reject the implication of his letter.

I strongly believe that MP's should have outside interests and indeed believe Parliament would be a far stronger place if more members had outside interests. The professionalization of politics is both wrong and damaging to the country.

10 I have had an opportunity to look at my speaking notes for the speech on 31st January 2011 and had indeed written on the notes (copy attached) a reference at the top of the page, a reminder to bring the Houses attention to the register, as my role with Circle Healthcare began on 1st October 2010.⁴

I had clearly intended to mention this but in the heat and excitement of what was a very passionate and emotive debate, must have overlooked to do so.

15 I have always declared my earnings from Circle in the Members Register of Interests so I have never tried to hide my involvement with a social enterprise which is part of the NHS family, already treating 160,000 NHS patients a year.

Indeed, in the Health and Social Care Bill Report stage and 3rd Reading debate on 8th September, I did declare the interest. I have enclosed a copy of Hansard for completeness sake.⁵

20 The omission was an inadvertent oversight on my behalf and I should not have allowed myself to be sidetracked in the heat and passion of the debate. I would of course be pleased to rectify the situation in an appropriate way.

5 December 2011

⁴ WE 5

⁵ WE 6

5. Mr Simmonds' speaking note, debate of 31 January 2011



MARK SIMMONDS, M.P.
Member of Parliament for Boston and Skegness

Reserve of member hit:

HOUSE OF COMMONS
LONDON, SW1A 0AA

Deputy
Mr/Speaker - support the bill *you speak*
State
contrast:

High Quality Care and Value for the taxpayer
complexity + significance of the bill result
Never been a better informed, more
knowledgeable or better prepared Secretary of
State for Health.

contrast to slow perplexing - tariff ceiling
intelligent

- NHS is taxpayer funded
- NHS is free - available to all
- NHS access is free at the point of need
NOT ability to pay

Builds logically on earlier reforms

- Previous government introduced FT's
- Previous government introduced the independent sector involvement - *both in* *Provision* *&* *control*
- Previous government introduced 'any willing provider'
- Previous government introduced P.B.C -
- Payment by results system - *payment by* *Activity*

National Tariff ceilings - quality
State
lead is a leader is support to prove
all & promoter always 186

6. Enclosure to Mr Simmonds' letter of 5 December 2011: Extract from the Official Report, 6 September 2011

Mark Simmonds: I draw the House's attention to the Register of Members' Financial Interests.

5 I congratulate the hon. Member for Easington (Grahame M. Morris) on a thoughtful, balanced and considered contribution, albeit somewhat lengthy. Some of the key points that he made are worthy of comment. He is absolutely right to highlight the importance of the issue of health inequalities, and it is absolutely right to make sure that the House understands that the Secretary of State and his Ministers are absolutely determined to narrow those inequalities; that is why the Secretary of State has ensured that that is in the Bill.

10 The hon. Member for Easington is also right to point out that health inequalities are determined not just by health policy. A whole range of factors influence health inequalities, and the best synthesis and summary that I have seen—if he has not read it, he should—is in a report by Professor Marmot.

Grahame M. Morris indicated assent.

15 **Mark Simmonds:** The hon. Gentleman has read it, which is very good; I see him nodding his head. He also asked a key question about the Government's motivation for bringing forward the Bill.

Grahame M. Morris rose—

20 **Mark Simmonds:** I shall finish this point, and then I will happily give way to the hon. Gentleman, because he was extremely generous in giving way. Let me summarise the Government's motivation in five areas. The first is to improve patient care; the second is to drive up the quality of services; the third is to improve patient outcomes; the fourth is to ensure better value for taxpayers' money; and the fifth, and perhaps most important, is to ensure that our much-loved national health service has a successful future as a service that is free at the point of need, and a service that is based on requirement, not ability to pay. There should be continued equity of access and, even more importantly, excellence for all.

25 With the honourable exception of the hon. Gentleman's contribution, all the contributions from Labour Members, including those on the Front Bench, have completely misrepresented the Bill. There is a degree of complacency creeping into the Labour party. The view that it puts forward—that there is nothing wrong with the national health service, and that it is a perfect, utopian service—is clearly not correct. Its view that no reform or innovation is required is not correct. Its view that no productivity improvements can be made is clearly not correct. The view that there is no problem with patient outcomes across a whole range of clinical indicators compared with the outcomes in our developed-world comparators is clearly not correct. The Labour party's view that there is no need to reduce the cost of administration and get more resources to front-line patient care is clearly not correct; nor is it correct that there is no need for greater clinical involvement in commissioning and for greater patient choice. The Labour party's position is purely political. It is not clinical and it does not have the best interests of patients at heart. I urge the Secretary of State and his ministerial team to reject the amendments tabled by Labour.

35

7. Letter to Mr Mark Simmonds MP from the Commissioner, 7 December 2011

Thank you for your letter of 5 December responding to mine of 28 November about this complaint.

40 I was most grateful for this response. When I wrote to you on 28 November I set out four questions on which I asked for your assistance.⁶ You have, I think, helpfully responded to the first, third and fourth of these, namely that you took up the role of strategic adviser to Circle Healthcare on 1 October 2010, although I assume you have decided it is not relevant to explain why you accepted this position. You have also said that you did consider the need to make a declaration at the debate on 31 January 2011 but overlooked doing so for the reasons you have given; and that you accept that you should have declared your interest.

⁶ WE 3

I am grateful for your help on all these matters. You have not, however, let me have a response to the second of my questions – namely whether you had any discussions with Circle Healthcare about the Health and Social Care Bill or the Government’s health policies and, if so, what they were. I do need this information so that I can form my own assessment of the relevance of your interest to the debate on the Bill and your contribution to it.

I have noted that you first registered on 12 January 2011 the role you started with Circle Healthcare on 1 October 2010. That, on the face of it, would appear to be a late registration and therefore a breach of paragraph 13 of the Guide to the Rules, which requires Members to register changes in their registrable interests within four weeks of each change. I note also that you first registered a March payment from Circle Healthcare on 3 May 2011, which again would appear, as the subsequent October registration, to be late. Any comments you wished to make about this would be welcome. Could you also confirm that the March payment was indeed the first payment you received?

Thank you for giving me a copy of your speaking note.⁷ I assume that there were other pages of the note, since you went on to make a series of other points and proposals during your speech. If I am mistaken on that, do let me know. I would also be grateful for some help on the sequence of the various manuscript additions that have been made to the typed note, in two different pens. Were all the manuscript amendments made during the course of the debate and were the darker-ink amendments made after the lighter ones (as appears to be the case)? I need this information to understand when you decided that you needed to declare an interest: it seems it may have been during the course of the debate itself.

I may also need to consider the terms of any declaration, given the following reference in the paragraph 76 of the Guide to the Rules:

“The House has endorsed the following advice on the occasions when such a declaration of interest should be made: ‘... the Member will declare his interest at the beginning of his remarks... it will be a matter for his judgement, if his interest is already recorded in the Register, whether he simply draws attention to this or makes a rather fuller disclosure’. Any declaration ‘should be sufficiently informative to enable a listener to understand the nature of the Member’s financial interest ...’, and Members are advised to be specific if there is any doubt as to which interest is involved.”

If you would like to comment on this, please do so.

If you were able to let me have a response to this letter within the next two weeks, I would be most grateful. Thank you again for your help.

7 December 2011

8. Letter to the Commissioner from Mr Mark Simmonds MP, 14 December 2011

Thank you for your letter dated 7 December 2011. In my first letter I confirmed that I inadvertently and unfortunately forgot in the heat of debate to declare my interest.

However, it was declared in the Register of Members Interests, in the subsequent Health and Social Care Bill debate and on my speaking notes.

I provided a copy of the notes showing that it was my intention to declare.⁸

I can confirm that I had no discussions about the Bill with Circle Healthcare, except a presentation I gave to clinicians invited by the company. This was the same as many other presentations I have given to groups of clinicians and healthcare professionals. My involvement with Circle has in no way influenced my speeches.

⁷ WE 5

⁸ WE 5

I would respond to your additional points as follows:-

My understanding of declarations is the necessity to register payments — my first payment was received in December not March as stated in your letter.

Payment received on 14 December 2011, registered 12 January 2011

5 Payment received on 12 April 2011, registered 2 May 2011

Finally, I would like to take this opportunity to re-iterate my willingness to rectify the situation and apologise to the Committee for my inadvertent omission.

14 December 2011

10 **9. Letter to Mr Mark Simmonds MP from the Commissioner, 21 December 2011**

Thank you for your further letter of 14 December which you emailed to me on 19 December responding to my letter to you of 7 December about this complaint.

I was most grateful for this further information. I do apologise if I have misunderstood some of the evidence which you have given me. To put the matter beyond doubt, my understanding of your evidence is as follows:

15 1. Your role with Circle Healthcare began on 1 October 2010, but you received no payment for that role until 14 December 2010 and then registered that quarterly payment (within the required four weeks) on 12 January 2011;

20 2. You received on 12 April 2011 the next quarterly payment. Your Register entry refers to it being “March 2011” but that is presumably signifying the end of the quarter and not the date when the payment was received. You registered that payment on 2 May (or 3 May as recorded in your Register entry) within the four week time period;

25 3. There was a further quarterly payment registered on 3 October 2011 which, according to your Register entry, was identified as “June 2011”, presumably referring to the end of that quarter. You have not told me when that payment was received. I would be most grateful if you could do so, so that I can resolve any suggestion of a late registration;

4. You also registered on the same date, 3 October 2011, the quarterly payment which you identified as “September 2011”, again presumably referring to the end of that quarter. You have not told me when you received that payment and I would be most grateful if you could do so, although it does not appear that there could be any suggestion of a late registration for that entry.

30 If this is correct, then it would appear that the outstanding question is whether you registered late the payment identified as June 2011 in the Register, and that depends on when you received it.

35 Turning to the declaration point, I asked in the fourth paragraph of my letter of 7 December if you could help me on the sequence of the various manuscript additions that you made to your typed note. I asked whether all the manuscript additions were made during the course of the debate and whether the darker ink entries were made after the lighter ones (as appeared to be the case). I would like to understand when you decided that you should declare an interest. I suggested the evidence seemed to point to you deciding that you needed to declare an interest during the course of the debate itself. I would be most grateful if you could either confirm or amend that assumption.

40 I appreciate that we are now in the recess, but if you could let me have a response to this letter by the end of the first week of January I hope that I would be able to make good progress with this matter during the course of next month.

I am most grateful for your help.

21 December 2011

10. Letter to the Commissioner from Mr Mark Simmonds MP, 10 January 2012

5 Thank you for your further correspondence dated 21 December 2011. I respond to each of your points as follows:-

1. Correct
2. Correct
- 10 3. The payment for the April-June quarter was received on 10 June 2011. I thought the declaration had been made. There was an administrative error and it wasn't until the September payment was received that the error came to my attention and was rectified.
4. Correct — date received payment 23 September 2011.

I cannot recall exactly what pen I used, as the debate was one year ago. However it appears that the ink (darker pen), were my final preparatory amendments prior to the debate and I can confirm that it was my intention prior to the debate to draw the Houses attention to the register.

15 It was as I have previously confirmed an inadvertent omission in the heat of debate.

I trust the above is helpful.

10 January 2012

11. Letter to the Registrar of Members' Financial Interests from the Commissioner, 12 January 2012

20 I would welcome your help on a complaint which I have received against Mr Mark Simmonds MP about the declaration of a relevant interest in a healthcare provider. There is also a question about a late registration entry.

In essence, the complaint is that Mr Simmonds failed to declare a relevant interest in a healthcare provider during the debate on the Health and Social Care Bill in which he took part on 31 January 2011.

25 My inquiries have also identified that Mr Simmonds did not register within the time period required by the rules a payment which he received from the healthcare provider in June 2011 and which he did not register until 3 October 2011.

30 I enclose the relevant correspondence. As you will see, Mr Simmonds has accepted that he should have declared a relevant interest during his contribution to the debate on the Health and Social Care Bill on 31 January 2011. He had intended prior to the event to do so, but overlooked it in the heat of the debate. He has also accepted that he did not register in time the payment he received on 10 June 2011 due to an administrative error.

I would welcome any comments you may wish to make on the two matters covered by this inquiry:

1. the declaration of Mr Simmonds' interests during the debate on 31 January 2011; and
- 35 2. the late registration of one of the payments he received from the healthcare provider.

It would be very helpful to have your response to this letter within the next week. I am grateful for your assistance.

12 January 2012

12. Letter to the Commissioner from the Registrar of Members' Financial Interests, 17 January 2012

5 Thank you for your letter of 12 January in which you ask for my comments on two matters in connection with this inquiry. These are: the possible declaration of Mr Simmonds' interests during the debate on the Health and Social Care Bill on 31 January 2011, and the possible late registration of the payment which Mr Simmonds received from Circle Healthcare, a healthcare provider, in June 2011. I shall respond to these points in order.

10 *The possible declaration of Mr Simmonds' interests during the debate on the Health and Social Care Bill on 31 January 2011*

Paragraphs 74 to 77 of the Guide to the Rules provide as follows:

15 74. It is the responsibility of the Member, having regard to the rules of the House, to judge whether a financial interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a financial interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but should make specific reference to the nature of the Member's interest.

...

20 76. The House has endorsed the following advice on the occasions when such a declaration of interest should be made: "no difficulty should arise in any proceeding of the House or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the House, include debates in Standing Committees, the presentation of a Public Petition, and meetings of Select Committees at which evidence is heard. On all such occasions the Member will declare his interest at the beginning of his remarks ... it will be a matter of judgement, if his
25 interest is already recorded in the Register, whether he simply draws attention to this or makes a rather fuller disclosure". Any declaration "should be sufficiently informative to enable a listener to understand the nature of the Member's financial interest ...", and Members are advised to be specific if there is any doubt as to which interest is involved.

30 77. In a debate in the House the Member should declare an interest briefly, usually at the beginning of his or her speech...

I take it from Mr Simmonds' letters to you that he accepts that he should have made a declaration. I agree with his judgement: I believe he is right to think that he had a relevant interest and I do not believe that his declaration would have impeded the business of the House. Mr Simmonds has said that it was through an 'inadvertent oversight' that he did not make a declaration.

35 *The possible late registration of the payment which Mr Simmonds received from a healthcare provider in June 2011*

Paragraph 13 of the Guide to the Rules provides as follows:

40 13. Members of Parliament are required to complete a registration form and submit it to the Commissioner within one month of their election to the House (whether at a general election or a by-election). After the initial publication of the Register (or, in the case of Members returned at by-elections, after their initial registration) it is the responsibility of Members to notify changes in their registrable interests within four weeks of each change occurring.

45 Mr Simmonds has told you that he received on 10 June 2011 a payment from Circle Healthcare for the April-June 2011 quarter. He did not register this until 3 October 2011: after the 28 day time limit determined by the House. I therefore confirm that this registration was late.

You will also be interested to know that Mr Simmonds notified this office on 3 January of his October to December quarterly payment received from this healthcare provider, and this entry will appear in the next published Register.

17 January 2012

5 **13. Letter from the Commissioner to Mr Mark Simmonds MP, 18 January 2012**

I have now heard back from the Registrar of Members' Financial Interests whom, as you will know from my letter to you of 12 January, I consulted about this inquiry into the declaration and registration of your interest with a healthcare provider.⁹

10 I enclose a copy of my letter to the Registrar of 12 January and her response of 17 January.¹⁰ As you will see, the Registrar has confirmed that she agrees with your judgment that you should have declared your financial interest during the debate on 31 January 2011 and that the registration of your April to June 2011 quarterly payment was late. You were, therefore, in breach of both the registration and declaration rules of the House.

15 I need now to consider how best to resolve this matter. I was grateful for the statement you made in your letter of 5 December that you would be pleased to rectify the situation in an appropriate way, which you reiterated to me in your letter of 14 December. Having carefully considered this matter, I am satisfied that, with your agreement, it can appropriately be resolved through the rectification procedure. To do that, you would need to accept the two breaches identified—in respect both of declaration and registration—and to make appropriate apologies. I would then write immediately to the complainant to let him know the outcome and
20 to close the complaint. In that letter I could note any action you have taken to prevent a reoccurrence. If you would like me to do this please let me know. Once I had written to the complainant I would report the conclusion of the matter briefly to the Committee on Standards and Privileges and, in due course, a copy of my letter to the complainant and the relevant evidence would be placed on my parliamentary webpages. I would not, however, submit a formal memorandum to the Committee for it to consider the matter.

25 Under the rules set out in paragraph 108 of the Guide to the Rules, rectification of the registration matter would require an appropriate explanatory note in the register (you have already made the belated entry). That means that the late entry would be identified in bold italic type, with an explanatory note so that readers would know that its late registration had been rectified in this way. It would remain in the Register for 12 months or until the next printed edition, whichever is the later. The Committee would expect you to have
30 tendered an apology for the breach of the registration rules, which could form part of your response to this letter. In the case of the declaration matter, the rules for rectification require the Member to make an apology to the House by means of a point of order. It would be open to you either to make this point of order straightaway, or after I have closed the inquiry.

35 I would be very grateful if you could let me know whether you are content for me to rectify these matters in the terms required under the rules and, if so, whether you would propose to raise your point of order before or after I have written to the complainant. If you agree to rectification, I would prepare a letter to the complainant which I would show you in draft so that you can comment, if necessary, on its factual accuracy.

40 If you would like to discuss any procedural points arising from this, do get in touch. In any event, I hope that you could respond to this letter within the next week so I can bring this to a conclusion as soon as possible. I am most grateful for your help.

⁹ Not included in the written evidence

¹⁰ WE 11 and 12

18 January 2012

14. Letter (via e-mail) from Mr Mark Simmonds MP to the Commissioner, 26 January 2012

Thank you for your recent letters dated 12 January 2012 and 18 January 2012. The contents of which I note.

5 As I have indicated in my previous letters, I would be pleased to rectify this matter in an appropriate way. I am of course prepared to issue an apology to the committee for late registration and have put in place procedures in my office to ensure a similar administrative error does not occur again. Please take this paragraph as my formal apology to the committee.

10 I would, as I have indicated previously be willing to rectify the inadvertent omission as it relates to the declaration via a point of order and would prefer to do so before you write to the complainant. It would be helpful if you could indicate when this might happen.

26 January 2012

15. Letter from the Commissioner to Mr Mark Simmonds MP, 26 January 2012

15 Thank you for your e-mailed letter of 26 January responding to mine of 12 and 18 January about the resolution of this complaint.

I was most grateful to receive your response. I will now ask the Registrar of Members' Financial Interests to contact you about making the appropriate rectification entry in the Register of Members' Financial Interests. It is for you to make the necessary arrangements to make the declaration apology. Please let me know when you have done so. In the meantime, I enclose a draft of the resolution letter which I propose to send the complainant once you have rectified your non-declaration. While, of course, the content is a matter for me, I would be most grateful if you could let me know as soon as convenient whether you are content with its factual accuracy.

Thank you again for your help on this matter. I look forward to hearing from you shortly.

25 26 January 2012

16. Extract from the Official Report: 20 February 2012

Points of Order

Mr Speaker: On a point of order relating to the Code of Conduct, on which no further points of order may arise, I call Mr Mark Simmonds.

30 **Mark Simmonds (Boston and Skegness) (Con):** It has been brought to my attention that on 31 January and 16 March 2011, I inadvertently omitted to draw the House's attention to my entry in the Register of Members' Financial Interests relating to strategic advice that I provide to a social enterprise health care provider. I would like to take this opportunity both to correct the record and to apologise.

Mr Speaker: We are grateful to the hon. Gentleman.

35 20 February 2012

17. Letter from the Commissioner to Mr Mark Simmonds MP, 21 February 2012

The purpose of this letter is to invite you to let me know as soon as possible the circumstances in which you failed to declare your financial interest as a paid strategic adviser to Circle Healthcare in the debate on NHS Reorganisation held in the House of Commons on 16 March 2011.

5 I raise this now because of the terms of the apology which you gave to the House on 20 February 2012 for the non-declaration of your interest.¹¹ As you know, this was necessary in order to rectify the non-declaration of your financial interest during the debate on the Health and Social Care Bill on 31 January 2011, which is the subject of a complaint which, with your agreement, I was on the point of concluding by means of the rectification procedure.

10 Before concluding my inquiry, however, I do need to know the circumstances in which you failed to declare your financial interest during the debate on 16 March 2011. You have previously told me that you did indeed declare your interest on 8 September 2011 (the actual date was, I think, 6 September 2011) and that you had intended to declare your interest in the earlier debate on the Bill on 31 January 2011. I therefore need urgently to know:

- 15 1. Why you failed to declare your interest during the debate on 16 March given your evidence that you were aware that such matters did need to be declared during a relevant debate. I need a response to this because it is necessary to help me to determine the seriousness of the initial breach given what you have now identified as a subsequent breach a few months later.
- 20 2. Given your point of order, I assume that you considered if there were other occasions to which your healthcare interest was relevant and therefore should have been declared, and, if so, I would be grateful if you could draw my attention to the relevant Hansard references.

I appreciate that it took a little time for you to make the necessary arrangements to raise your point of order, including taking account of the half-term recess, and I would therefore, be very grateful for a response to this letter within the next week so that I can decide on how best this matter might now be resolved.

21 February 2012

25 **18. Letter from Mr Mark Simmonds MP to the Commissioner, 29 February 2012**

Thank you for your recent letter dated 21 February 2012.

Prior to correcting the record on 20 February 2012, for the sake of completeness, I checked to see if a similar situation had occurred in any other debate. I respond to your points as follows:-

30 1) My speaking notes, which I have checked for the debate on 16 March 2012, clearly mention the Register, so it was once again clearly my intention to draw the Houses attention to the Register of Members Interests, where my interests were fully declared. I can only conclude that in the heat of debate I inadvertently omitted to do so.

35 2) The two subsequent debates that relate to health matters which I have participated in, on 6 September 2011 and recently on 22 February 2012, I have remembered to draw the Houses attention to the Register and shall of course do so from now on. There are no other relevant occasions.

I also draw your attention to the debate on 11 October 2010, (the Finance Bill No.2), where in a calmer, less politically heated debate, I drew the Houses attention to the Register, as they relate to my commercial property interests.

40 I believe that I have now via my point of order comprehensively corrected the record and apologised for both inadvertent omissions formally to the House. I can assure you I will do my utmost to ensure that this does not happen again.

¹¹ WE 16

29 February 2012

19. Letter from the Commissioner to Mr Mark Simmonds MP, 29 February 2012

5 Thank you for your letter of 29 February responding to mine of 21 February about the non-declaration of your health interest in a second debate last year.

10 I was most grateful for this response and have noted that the reason for your non-declaration for the debate on 16 March 2011 followed precisely that of your non-declaration on 31 January 2011 which is the subject of this complaint. In your initial response of 5 December 2011 you kindly sent me a copy of your speaking notes for 31 January which had annotated on it a reference to the “Register of Members Int”. You have referred to checking your speaking notes for the debate on 16 March last year. It would be very helpful therefore if you could let me have, if possible by return, a copy of those speaking notes. Once I have seen these I will decide how best to proceed.

I would be most grateful for your continued help on this matter.

29 February 2012

15 **20. Letter from Mr Mark Simmonds MP to the Commissioner, 1 March 2012**

Thank you for your letter dated 29 February 2012.

As requested, I enclose a copy of the first page of my prepared speaking notes, for the debate on 16 March 2012.¹²

20 You will see that the notes are all manuscript in this instance and that the ‘Register’ is noted at the top right hand corner of the first page of my speaking notes.

1 March 2012

¹² WE 20

21. Mr Mark Simmonds' speaking note, debate of 16 March 2011


 MARK SIMMONDS, M.P.
 Member of Parliament for Boston and Skegness
 Lancaster - unusually

Register
 HOUSE OF COMMONS
 LONDON SW1A 0AA
 - GP's want to see gov. now.

All notes on the (i) side.
 - GP's - consent can be 3.5%
 - GP's want to see gov. now.

TOTALLY Committed to the
 ethos of the NHS
 totally committed to a free NHS
 Service
 totally committed to a taxpayer
 funded Service
 Most importantly totally committed
 to continually improving patient care.

The Health & Social Care bill Does
 all of these things
 - Comorbidity
 - Ageing pop
 - Increasing DRUG
 & Technology

In all of these debates the
 most important facet is the
 user of the Service, the patient.
 This bill is exactly the right direction.

22. Letter from the Commissioner to Mr Mark Simmonds, 1 March 2012

5 Thank you for your letter of 1 March responding to my letter of 29 February about the non-declaration of your interest in the debate on 16 March 2011 (there is a typo in your most recent letter and your letter of 29 February dating this debate as being on 16 March this year, which is clearly not the case).

10 I have considered carefully the further evidence you have provided, for which I was most grateful. I have concluded that it would be right to accept your evidence that both the occasions where you did not disclose your interest were inadvertent errors, although it is clearly very unfortunate that the same error occurred in exactly the same way on both occasions. Nevertheless, I note that you did register your financial interest and did declare it in the subsequent debate on 6 September 2011. I have concluded, therefore, that it would be right to confirm my initial view that the complaint against you, and the subsequent breaches identified during the course of this inquiry, can be resolved through the rectification procedure. In coming to this decision, I have, of course, taken note that you have already apologised in the House for the two occasions on which you omitted to draw the House's attention to your relevant financial interest in the Register and your separate apology for the late registration of the quarterly payment.

15 I enclose a draft of the letter which I propose to send to the complainant to bring this matter to a conclusion. As you will see, I have revised it from the draft I sent you on 26 January to take account of your statement in the House and our subsequent correspondence.

20 I would be very grateful if you could let me know by Monday whether there are any factual points you would wish to make on this draft. As soon as I hear back from you, I propose then to write to the complainant and bring this matter to a conclusion.

Thank you for your help with this.

1 March 2012

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