



HOUSE OF LORDS

Annual Report 2010-2011
Commissioner for Standards



Foreword

This Report, the first of its type, covers the period 2 June 2010 to 31 May 2011. The reporting period reflects the fact that my appointment as Commissioner for Standards was approved by the House of Lords on 2 June 2010.¹

The creation of the post of Commissioner for Standards was provided for by the new Code of Conduct, agreed by the House on 30 November 2009,² and by the Guide to the Code of Conduct contained in the 2nd Report of the Committee for Privileges of 2009-10, which was agreed by the House on 30 March 2010.³ Both came into force on 18 May 2010, at the start of the 2010-12 session of Parliament.

The new structure of Code, Guidance and Commissioner arose from a clear desire by the House of Lords to have a standards regime which effectively upheld its reputation and which sustained public confidence.

In May 2009, the then Leader of the House, Baroness Royall of Blaisdon, announced the appointment of a Leader's Group on the Code of Conduct. The Group was appointed "to consider the Code of Conduct and the rules relating to Members' interests, and to make recommendations".⁴ The Group's creation was directly linked to allegations in the media about the conduct of four peers. The allegations were referred to the Sub-Committee on Lords' Interests⁵ for investigation, and resulted in the suspension from the service of the House of two of the four members for having breached the Code of Conduct. That episode, allied to other allegations against peers, and a series of allegations affecting members of the House of Commons, combined to significantly impact on public confidence in Parliament and Parliamentarians.

The Leader's Group on the Code of Conduct recommended that the post of Commissioner for Standards be created.⁶ The Commissioner would be appointed by the House but be functionally independent. That recommendation was accepted.⁷

The new structure was implemented at a time of great uncertainty and it was unclear whether a high number of complaints against peers would become a constant feature of life, or whether the events of 2009 were an aberration. In the 12 months covered by this report, the number of complaints has been relatively low and more akin to the historic norm than the high level reported in 2009.

It is too early to make any judgement on the effectiveness of the new standards structure but I genuinely believe that the new structure is more transparent and independent than previous arrangements. Equally, the events of 2009 have highlighted to peers the importance of operating in a manner which demonstrates their strong individual commitment to the concept of "personal honour." The Code of Conduct and Guide, allied to clear leadership from all the groups within the House, have provided members with the strongest possible signal of the standards of conduct expected of them, and to which they undertake to adhere.

¹ HL Deb 2 June 2010 col 256.

² HL Deb 30 November 2009 cols 590-648.

³ HL Deb 30 March 2010 col 1290.

⁴ HL Deb 21 May 2009 cols 1434-5.

⁵ Now the Sub-Committee on Lords' Conduct.

⁶ Report of the Leader's Group on the Code of Conduct (2009-10) (HL Paper 171), paras 67-75.

⁷ HL Deb 30 November 2009 cols 590-648.

In essence, I have tried during my first year in post to establish effective administrative procedures and, crucially, to de-mystify my position by both speaking to groups of peers and by being accessible to individual peers.

I would like to place on record my thanks to several groups who have sought to assist me during my first year in post. The Clerk of the Parliaments and his staff have provided invaluable support. Peers from all parts of the House have made it clear that they are committed to the highest standards of behaviour and support the creation of an independent investigatory capability. The Sub-Committee on Lords' Conduct has been welcoming and we have sought to develop and refine procedures in the light of experience.

Paul Kernaghan CBE QPM



Review of the year

1. I was appointed as the House of Lords' Commissioner for Standards on 2 June 2010 and the primary focus of my activity has been in establishing my office and appropriately advertising my role and functions. Crucially, a presence was established on the House of Lords website, enabling members of the public to easily access my office contact details and establish my terms of reference.
2. Internally, I embarked on a round of meetings with the leaders of the party groups and the Convenor of the Crossbench peers, as well as the Convenor of the Bishops. They were, without exception, supportive of the new standards structure and conscious of their leadership responsibilities in supporting members, particularly new members. In addition, I sought invitations to address the various group meetings and within the reporting period have spoken at three such gatherings. I am keen to dispel myth and replace it with hard information in respect of my functions and methods of working. I believe that this approach has been well received.
3. I am independent of both the House of Lords and its administration in the exercise of my functions. However, the Clerk of the Parliaments and his staff have been extremely helpful in respect of the provision of an office and other core support functions. Fortunately, my workload to date has not required me to request additional support.
4. Externally, I have established relationships with the Crown Prosecution Service (CPS) and the Metropolitan Police Service (MPS). I have a very clear mandate in respect of peers' conduct and alleged breaches of the Code of Conduct. However, on occasions it is likely that complaints may also allege breaches of the criminal law. In such cases it is vital that the rights of all concerned are protected and that there is no conflict between investigative agencies. The principles of equality before the law and natural justice are central to my operations. The MPS role is clear in respect of offences alleged to have been committed in London and I would liaise as appropriate with the other fifty-one territorial police forces, if complaints alleged criminal offences had taken place outside London.
5. I have liaised with the Parliamentary Commissioner for Standards⁸ and am confident that we have established an appropriate professional relationship. It should be noted that his functions are not identical to mine and we are both conscious that the two Houses of Parliament are rightly jealous of their respective independence. However, we will willingly cooperate as necessary.

⁸The role of the Parliamentary Commissioner for Standards is set out at: <http://www.parliament.uk/pcs>

Conduct proceedings conducted under the ‘old regime’

6. During the dissolution of Parliament prior to the May 2010 general election, a number of investigations by the Sub-Committee on Lords’ Conduct were suspended. These were resumed after the reappointment of the Sub-Committee following the return of Parliament on 18 May 2010. The investigations concerned the use of the Members’ Reimbursement Scheme by Baroness Uddin, Lord Bhatia and Lord Paul. All three had been the subject of complaints following allegations in The Sunday Times. The Sub-Committee had begun these investigations and it was right that they should continue with them. The three peers were therefore investigated under the old procedure set out in The Code of Conduct: procedure for considering complaints against Members.⁹ The investigations resulted in the three peers being suspended from the service of the House on 21 October 2010.¹⁰ These were high profile cases which were widely reported in the press. I had no involvement in these cases but a review of the year from the perspective of conduct would not be complete without reference to them.

Criminal proceedings

7. Two other cases made the headlines in 2010-11. On 25 January 2011 Lord Taylor of Warwick was found guilty of six charges of false accounting, having wrongfully claimed £11,277.80 for travel expenses and overnight subsistence between March 2006 and October 2007. He registered a property in Oxford as his main home in order to make false claims for overnight subsistence and travel to and from Westminster; his only residence throughout this period was his home in Ealing, West London. He was sentenced to 12 months’ imprisonment on 31 May 2011.
8. On 26 May Lord Hanningfield was found guilty of six charges of false accounting, having wrongfully claimed £13,379 for travel expenses and overnight subsistence between March 2006 and April 2009. He made the claims for overnight subsistence despite travelling home to Essex each night (or occasionally travelling elsewhere) and despite certain of his transport costs being funded by Essex County Council, of which he was the Leader. He was sentenced to nine months’ imprisonment on 1 July 2011.
9. All internal investigations relevant to these cases were suspended until the judicial process had been completed.

⁹ Committee for Privileges, 4th Report (2007-08): The Code of Conduct: Procedure for considering complaints against Members (HL Paper 205).

¹⁰ Committee for Privileges, 4th, 5th and 6th Reports (2010-11), (HL Papers 37, 38 and 39); HL Deb 21 October 2010 cols 893-903.

Complaints

10. The complaints I have dealt with from my appointment on 2 June 2010 to 31 May 2011 are set out in the table below. Strict comparisons to the data from previous years are not possible due to differences in the way in which the data was collected – for example, complaints screened out are not included in the figures pre-2010. However, it is possible to see that the general upward trend of complaints has not been sustained.

June 2010 – 31 May 2011	
Formal complaints received	12
Complaints subject to investigation	2 ¹¹
(a) complaints dismissed	
(b) resolved by remedial action	2
(c) referred to the Sub-Committee	
Complaints not investigated	10
(a) because fell outside remit	8
(b) because anonymous	-
(c) because repeating allegations of previous inquiry	1
(d) because trivial or vexatious	

Year	Complaints received
2004	1
2005	1
2006	2
2007	6
2008	9
2009	21

11. Matters falling within my remit are clearly set out at paragraph 109 of the Guide to the Code of Conduct:

- 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.

¹¹ Two complaints were submitted regarding the conduct of the Earl of Caithness. The two complaints were identical in substance and were investigated jointly – see Committee for Privileges and Conduct, 2nd Report (2010-11): The Conduct of the Earl of Caithness (HL Paper 21).

12. Equally, paragraph 110 sets clear categories of matters falling outside my remit:
 - 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.
13. However, experience to date shows that many complainants have recourse to my office in relation to matters which fall outside the Commissioner's remit. Complaints I have screened out include those related to decisions taken by a peer in a business or commercial capacity unrelated to their parliamentary activities, or decisions taken by a peer whilst a minister of the crown.
14. It is not my role to express a view on matters which fall outside my remit but I do try to assist complainants whenever possible by referring them to a more appropriate body, where applicable. In all cases I advise the peer concerned when a complaint is received, even if my decision was to screen it out.
15. In the one case I have investigated, I was able to agree remedial action with the peer concerned. The scope of remedial action is not fully explored in the Guide to the Code of Conduct and subsequent discussion with the Sub-Committee on Lords' Conduct has resulted in an agreement that letters submitted by peers in pursuance of a remedial action agreement, will in future be addressed to the Chairman of the Sub-Committee, as opposed to the Commissioner for Standards.

The future

16. It would be ill-advised to speculate as to the future volume of complaints which the Commissioner for Standards might receive. However, it is perhaps more justified to observe that the behaviour of peers in relation to their parliamentary functions is now clearly a matter of real public and media interest, even though only a small number have been the subject of substantiated complaints. The House of Lords is the second Chamber of the United Kingdom Parliament; it makes laws, holds government to account, and debates issues of public interest. Thus, its public standing is a matter of real importance. I am confident that the House of Lords is determined to maintain the highest standards and that the role of the Commissioner for Standards is to independently assist the House in that vital work. It is not my role to generate or encourage complaints but the very existence of my office demonstrates to the wider public that an independent investigatory function exists to ensure that breaches of the Code of Conduct are properly dealt with. Integrity is not negotiable.