



HOUSE OF LORDS

Report from the Commissioner for Standards

The conduct of Lord Botham

Commissioner for Standards

The independent Commissioner for Standards is responsible for considering any alleged breaches of the Codes of Conduct.

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Code of Conduct for Members, Guide to the Code of Conduct and Code of Conduct for Members' Staff

The present Code of Conduct for Members of the House of Lords was agreed on 30 November 2009. Amendments to it were agreed by the House on 30 March 2010, 12 June 2014, 25 February 2016, 9 February 2017, 3 April 2017, 30 April 2019, 18 July 2019, 16 March 2020 and 8 July 2020. The Guide to the Code of Conduct was proposed by the Committee for Privileges (2nd Report, Session 2009–10, HL Paper 81) and agreed by the House on 16 March 2010. The Guide was amended on 9 November 2011, 6 March 2014, 13 May 2014, 24 March 2015, 25 February 2016, 9 February 2017, 3 April 2017, 30 April 2019, 18 July 2019, 16 March 2020 and 8 July 2020.

The Code of Conduct for House of Lords Members' Staff was agreed on 13 May 2014. Amendments to it were agreed on 24 March 2015, 30 April 2019, 18 July 2019, 16 March 2020 and 8 July 2020. The Codes and Guide are kept under review by the Conduct Committee.

Advice

The Registrar of Lords' Interests advises members of the House and their staff on their obligations under the Codes of Conduct.

Address: Registrar of Lords' Interests, House of Lords, London SW1A 0PW

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Registers of Interests

A list of interests of members and their staff can be found online: www.parliament.uk/hlregister

Independent Complaints and Grievance Scheme helpline

Telephone: 0808 168 9281 (freephone)

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The conduct of Lord Botham

SUMMARY OF THE COMPLAINT

1. On 8 March 2021, I received a complaint from a member of the public, Dr Alex May, about Lord Botham.
2. Dr May complained that Lord Botham had incorrectly registered his directorship of the company Newschoice Limited. Dr May considered that the outstanding director's loan disclosed in the most recent accounts for Newschoice Limited on Companies House should be considered a form of remuneration.¹ Dr May complained that Lord Botham should therefore have registered his directorship as a category 1 interest—a remunerated directorship—rather than as a category 10a interest—an unremunerated directorship.

Relevant aspects of the Code

3. Paragraph 11(a) of the Code of Conduct says that:

“In order to assist in openness and accountability members shall ... register in the Register of Lords’ Interests all relevant interests, in order to make clear what are the interests that might reasonably be thought to influence their parliamentary actions.”
4. Furthermore, paragraph 14 of the Code says that:

“Members are responsible for ensuring that their registered interests are accurate and up-to-date. They should register any change in their relevant interests within one month of the change.”
5. Paragraph 53 of the Guide to the Code of Conduct sets out the provisions for registering category 1 interests and provides a definition of “remuneration”:

“In this category, and in others, “remuneration” includes not only salaries and fees, but also the receipt of any taxable expenses, allowances or benefits, such as the provision of a company car. Members should register the name of the company in which the directorship is held and give a broad indication of the company’s business, where this is not self-evident from its name. Directly remunerated directorships of companies which are not trading should be registered.”
6. Also relevant to this complaint were the provisions in the Guide to the Code concerning personal service companies.
7. Paragraph 55(a) of the Guide to the Code says that:

“While clients of companies in which members hold a directorship must be declared in relevant circumstances (see paragraph 97), they do not

¹ Companies House, ‘Newschoice Limited Filing History’: <https://find-and-update.company-information.service.gov.uk/company/07977661/filing-history> [accessed 19 April 2021].

need to be registered except where:

(a) the company is the member’s own intermediary (most commonly a limited company that they control).²”

8. These provisions apply to remunerated directorships—category 1 directorships. They do not apply to unremunerated directorships—category 10(a) directorships.

Preliminary assessment

9. I carried out an extended preliminary assessment of this complaint because I needed further information from Lord Botham about Newschoice Limited before I could determine whether an investigation was necessary.
10. On Companies House, Lord Botham and his wife, Lady Botham, are listed as directors of Newschoice Limited.³ Accounts on Companies House show an outstanding director’s loan of £197,329 for the year ending 31 October 2019.⁴ This is the director’s loan which the complainant suggested should be classed as a form of remuneration because it amounts to a “benefit in kind”.
11. When a director owes their company more than £10,000 at any time in the year, the discounted interest on this loan must be treated as a “benefit in kind” and may be taxed as such.⁵ Paragraph 53 of the Guide—set out in paragraph 5 of this report—says that remuneration “includes not only salaries and fees, but also the receipt of any taxable expenses, allowances or benefits”. Therefore, under the Code of Conduct, a director’s loan could be considered a form of remuneration. I wrote to Lord Botham on 19 March 2021 as part of the preliminary assessment stage. He replied on 23 March 2021 with a letter from his accountant, TLP Consulting Limited.
12. First, I asked whether the director’s loan was in Lord Botham’s name. If the loan was taken out solely by Lady Botham, the other director of Newschoice Limited, then the complaint would be dismissed because Lady Botham is not a member of the House.
13. TLP Consulting Limited confirmed that the director’s loan was in the names of both Lord and Lady Botham.
14. Secondly, I asked whether any of the loan was outstanding. The accounts on Companies House which detail the director’s loan are for the year ending 31 October 2019, so Lord Botham could have since paid off the loan in full. If Lord Botham had paid off the loan in full prior to joining the House, the complaint would be dismissed.
15. TLP Consulting Limited said that as of March 2021, the outstanding balance remained over £10,000.
16. Thirdly, I asked Lord Botham about the interest arrangements for the director’s loan. Fourthly, I asked Lord Botham whether he paid any personal

2 Also known as a personal service company.

3 Companies House, ‘Newschoice Limited Filing History, People’: <https://find-and-update.company-information.service.gov.uk/company/07977661/officers> [accessed 19 April 2021].

4 Companies House, ‘Newschoice Limited Filing History’: <https://find-and-update.company-information.service.gov.uk/company/07977661/filing-history> [accessed 19 April 2021].

5 HM Government, ‘Director’s loans’: <https://www.gov.uk/directors-loans/you-owe-your-company-money> [accessed 19 April 2021].

tax on the loan. These questions would enable me to characterise the loan and determine whether it should be classed as a taxable benefit.

17. TLP Consulting Limited said that “no interest is charged by the company on the loan”. Furthermore, they confirmed that the loan is classified as a “beneficial loan under HMRC rules” and reported to HMRC as such.
18. In the light of these responses I determined that there was evidence sufficient to establish a *prima facie* case that the Code of Conduct has been breached.

Investigation

19. I wrote to Lord Botham on 25 March 2021 to inform him that I had determined that an investigation was appropriate. In my letter, I asked Lord Botham to provide any further evidence that he wished to be considered in my investigation.
20. On 25 March 2021, Lord Botham responded to my letter. In his response, Lord Botham apologised and said that he “did not realise that a director’s loan was seen as a benefit in kind”. In a further letter sent on 12 April 2021, Lord Botham acknowledged that the director’s loan was a taxable benefit and should have been registered as a financial interest.
21. I also considered whether Newschoice Limited ought to be classed as a personal service company for the purposes of the Code.
22. The term “personal service company” is not defined in law, nor is any definition included in the Guide to the Code of Conduct. However, in 2014 the House of Lords *ad hoc* Select Committee on Personal Service Companies used the following definition:

“The term ‘personal service company’ is understood generally to mean a limited company, the sole or main shareholder of which is also its director, who, instead of working directly for clients, or taking up employment with other businesses, operates through his company. The company contracts with clients, either directly or through an agency, to supply the services of its director.”⁶

23. My discussions with Lord Botham clarified that Newschoice Limited does not offer any services other than the personal services of Lord Botham, who is a director of the company and its majority shareholder. Lord Botham said that he set up Newschoice Limited in 2012 at the request of Sky TV to enable them to pay him through a limited company. Sky TV is not a client of Newschoice Limited any longer, but Lord Botham continues to use Newschoice Limited to receive payment for his personal services.

Finding

24. **The outstanding director’s loan to Lord Botham constitutes remuneration under the terms of the Code of Conduct. Lord Botham’s directorship of Newschoice Limited was therefore incorrectly registered and ought to have been registered under category 1 (remunerated directorship).**

6 Select Committee on Personal Service Companies, *Personal Service Companies* (Report of Session 2013–14, HL Paper 160), para 2.

25. **Lord Botham breached paragraphs 11(a) and 14 of the Code of Conduct by failing to register his directorship of Newschoice Limited correctly.**

Outcome

26. I consider that this breach of the Code was minor and inadvertent. Furthermore, once the matter had been brought to his attention, Lord Botham promptly apologised for the breach and acknowledged that he should have registered his directorship as a Category 1 interest.
27. In the light of these factors, I considered this to be a breach of the Code for which remedial action is an appropriate outcome. On 13 April 2021, I wrote to Lord Botham and proposed that he correctly register his directorship of Newschoice Limited as a Category 1 interest (remunerated directorships) and include the clients of Newschoice Limited in that entry.
28. Lord Botham has since registered his directorship of Newschoice Limited as a Category 1 interest and has registered its current client, Actegy Health.
29. Furthermore, I proposed that Lord Botham should write a letter of apology to the Chair of the Conduct Committee, Lord Mance, for breaching the Code of Conduct.
30. On 22 April 2021, Lord Botham wrote a letter to Lord Mance in which he apologised for failing to register correctly his directorship of Newschoice Limited. In his letter, Lord Botham said that he was “unaware that an outstanding director’s loan should be deemed as a remunerated directorship as at present” and that, for the past year, “no income has been derived from this limited company”.
31. The case was therefore resolved by remedial action. I am grateful to Lord Botham for his co-operation in this matter.