

House of Commons Committee on Standards

Reflections of the Lay Members on their first year in post January 2013 – January 2014

Purpose of this paper

(i) The three Lay Members of the Committee on Standards offer this joint reflection on their first years work to Mr Speaker and Chair of the Committee on Standards, as a contribution to ongoing thinking regarding Parliamentary Standards.

(ii) As part of our induction programme Lay Members met with The Speaker and were invited to comment on our experience after the first year in post. The Chair of the Committee on Standards also indicated his interest in hearing our comments and observations.

(iii) As Lay Members, we are very aware that we function in an institution with an immense history and in which there are complex systems and procedures. We regard this paper as a record of our initial reflections as we have fulfilled our role. We acknowledge that those reflections are based on an incomplete awareness of the totality of the institution. However, perhaps our different perspectives can collectively raise matters which merit consideration. We trust that there will also be an opportunity for Members of the Committee on Standards, who have been very supportive to us, to consider our reflections.

Summary of Reflections

In this paper we, the Lay Members, reflect on our experiences in the 6 areas set out below. We note that one of the themes running through these reflections is the need to ensure better communication on standards matters, both within the House and more widely with the public. The summary of our reflections is referenced using the paragraph numbers of the main text which commences on Page 4.

The induction process and the role of the Lay Members

Para 15. We reflect that it might be helpful, both internally and externally, if there was a clearer agreed and communicated public position as to why Lay Members were appointed and what their role involves.

Committee meetings

Para 20. With Parliamentary standards constantly under scrutiny and with the immense workload requirements which are placed on Elected Members, we would be keen to develop a greater understanding of what arrangements could be developed to support the attendance of Elected Members at this vital committee. The Lay Members reflect that if the House wants to send a strong signal, to both the public and Elected Members, that it takes standards seriously,

it might consider introducing mechanisms to support Members of the Committee to prioritise their attendance at its meetings.

The role of the Committee

Para 25. *We reflect that reviewing the Committee's terms of reference, and in the process simplifying and streamlining them, could aid both public understanding of the standards process as well as serving to clarify the position for Elected Members. This, we believe, would contribute to building confidence in the standards system.*

Para 26. *A fundamental rewrite of The Code of Conduct and The Guide to the Rules, with close attention given to the way in which these are presented and communicated, would, in our opinion, help ensure that these important documents are both seen to be fit for purpose and future proofed for the digital world and for the next Parliament.*

Para 29. *In our view, we consider it may be helpful to ask whether the different parts of the standards system fit together appropriately; (i) is the current system generating unnecessary duplication; (ii) is a sufficiently co-ordinated approach being adopted and, (iii) are there any gaps in the current system which, if addressed, would future proof arrangements? Rationalisation of the process would signal a strong commitment to improving standards.*

Setting standards

Para 37. *The Lay Members reflect that the failure to have a basic statement of what an Elected Member does is perhaps the root cause of some of the problems that have been experienced in both defining and enforcing standards of conduct in the House and in the setting of a fair fee for the delivery of that role.*

Para 38. *Whilst recognising that considerable work has been undertaken both within and outside the House regarding defining the role and function of an Elected Member, we consider that it would be helpful to draw together this research and in so doing to also consider the associated terms and conditions of service for elected representatives elsewhere.*

Para 41. *When in doubt, we consider that the seven principles of public life - selflessness, objectivity, integrity, accountability, openness, honesty and leadership - should be used as the ultimate yardstick by which Members' behaviour should be judged. Taking this approach, we believe, will help ensure that the standards of behaviour expected of Elected Members are more aligned with other public facing organisations.*

Para 43. *When Elected Members decide that different standards of behaviour are acceptable from them, as compared to other external public figures, we are of the view that a clear evidence base should always be used, and communicated, to publicly explain the reasons for this decision.*

Para 45. *We reflect that greater clarity, in terms of how standards are implemented and who is responsible for this, would be beneficial. We consider that both specific induction programmes (for new Members elected to the House), and refresher training of all Elected Members, are important elements in embedding high standards, so that Members are up to date with any*

changes in the rules, expectations and requirements (similar to the process of 'Continuing Professional Development' found in many work places).

Showing leadership on standards

Para 49. *If the House is to show that it is not just paying lip service to the importance of high standards then, in our view, more needs to be done to ensure that leadership (one of the seven principles of public life), is shown in this area. We observe that the extent to which the Committee on Standards should lead in this area, and be at the forefront of championing wider cultural change, would be worth exploring.*

How the Committee on Standards works

Para 52. *To help focus debate and build momentum, we are of the view that it would be helpful to have an annual planning session when the Committee discusses and agrees **(i)** how it should work; **(ii)** what to prioritise and, **(iii)** the development of a strategic forward agenda for the year - allowing of course for the time needed to respond to individual cases.*

**Main Text of the Reflections of the Lay Members of
The Committee on Standards
on their first year in post
January 2013 – January 2014**

Background

1. The establishment of the new Committee on Standards and the inclusion of Lay Members in that Committee (henceforth referred to as ‘the Committee’) has been a significant development for the House. The Committee on Standards in Public Life first recommended the appointment of Lay Members in 2009. In moving the Motion for the inclusion of Lay Members, on 2nd December 2010, the Chair of the Committee on Standards and Privileges said that the changes would ensure:

“...that the workings of the House are as transparent as is humanly possible, so that people outside have more confidence in us than they have had in the recent past”. [Hansard 2nd Dec 2010]

2. The House of Commons Commission oversaw an open recruitment process and in December 2012 the House agreed to the appointment of three Lay Members - Sharon Darcy, Peter Jinman and Walter Rader:

‘This appointment [of Lay members] will run until the dissolution of Parliament; it [the appointments] may be renewed thereafter without another competition, but this renewal will not exceed two years from the date of the dissolution of the Parliament in which you [the lay members] were first appointed’
[Lay Member Appointment Letter 19 December 2012]

Introduction

3. This is a joint reflection, from all three Lay Members. We offer our first year’s reflections as a ‘critical friend.’
4. The Lay Members would like to thank all of those who have generously given their time in helping to build our knowledge of the processes and procedures of both the Committee and the House.
5. One year on we have, as a result, developed a greater understanding of the work of the Committee and the functioning of the House. We acknowledge that our reflections are based on an incomplete awareness of the totality of the institution, however, perhaps our different perspectives and wide ranging external experience can raise matters that merit consideration.

6. We set out our reflections as a contribution to the ongoing development and change agenda regarding the processes and systems of the House. In his address to the Hansard Society on 27th November 2013, Mr Speaker said that the 750th Anniversary of the House, in 2015, was '*an occasion for challenge*'. We offer both these initial reflections, and those which may emerge in future years, as a constructive contribution to this process. Setting down reflections should ensure that we do not forget our crucial first impressions as Lay Members and it will also act as a helpful reminder for us in subsequent years.

The induction process and the role of Lay Members

7. The Lay Members have received a comprehensive induction process covering the work and procedures of the House which has included meetings with The Speaker, the Leader, Deputy Leader and Shadow Leader of the House, the Chief Whip, the Clerk of the House, the Commissioner for Standards, the Registrar for Members' Interests and representatives from the media unit.
8. The Chair, Clerk of the Committee and its Members have both been supportive of our appointments and generous with their time in helping us gain a better understanding of the unique environment of the House. We have 'shadowed' various Members of the Committee, including in their constituencies, so that we could gain an understanding of the full range of work that they undertake and the scope of the role of the Elected Members.
9. In our first twelve months the Committee, as a whole, has had meetings with the Chief Whips from all of the main parties, the Committee on Standards in Public Life, the Hansard Society, the Metropolitan Police and representatives of the media, in addition to taking oral and written evidence.
10. As Lay Members we have invested considerable time in proactively seeking to improve our understanding of the House. This has included attending All Party Parliamentary Group meetings, Select Committee hearings, meetings of the Back Bench Business Committee and meetings with a wide range of MPs and their support staff. We have observed, first hand, how Parliament is now increasingly accessible to members of the public. We note the increased direct access to MPs through email, together with the influence of social media such as 'twitter', 'facebook' and blogs, in addition to the levels of information accessible on the internet and the Parliamentary Channels on TV and radio.
11. We note, one year on from our appointment, that there are Members of the House who appear surprised that Lay Members have been appointed to the Committee. There are also those who are unaware that the Standards and Privileges Committee has been split into two separate Committees. This may indicate the challenge of communication within the House.
12. The debates in the House regarding our appointment, in December 2010 and December 2012, did not fully explore the extent and nature of the role of the Lay Members. The principal duties of Lay Members are, however, set out in Standing Orders No149 and No 149A. In particular reference is made as follows:

'Lay Members may take part in proceedings of the committee and any sub-committee to which they are appointed and may ask questions of witnesses, but

Lay Members may not move any motion or any amendment to any motion or draft report, and may not vote'. [SO No149 (5)].

13. Since taking up our positions, we have heard varied views within the House on the reason for our roles. These views include that Lay Members are able to identify up and coming issues before they 'hit', are helpful in avoiding 'group think' or that Lay members are restricted to giving advice on issues.
14. We take the view that there is both a lack of clarity and a degree of uncertainty regarding the appetite for change that the House has in respect of Lay Members and the matter of Standards. We note that it is now common practice for there to be inclusion of lay members in many expert committees, on professional bodies and in regulatory processes, as a contribution to openness and public scrutiny.
15. *We reflect that it may be helpful both internally and externally if there was a clearer agreed and communicated public position as to why Lay Members were appointed and what the role involves.*

Committee meetings

16. As Lay Members we do not currently have the power to vote in the Standards Committee as we are not Elected Members of the House. However:

'Any Lay Member present at a meeting at which a report has been agreed shall have the right to submit a paper setting out that Lay Member's opinion on the report. The committee shall not consider a motion that the Chair make a report to the House until it has ascertained whether any Lay Member present wishes to submit such a paper; and any such paper shall be appended to the report in question before it is made to the House.' [SO No149 (9)]

17. We regard this right as a considerable responsibility. The Chair and the Committee have always given us the opportunity to contribute our ideas, thoughts and opinions during the business of the Committee. The Committee has listened to suggestions from the Lay Members on both generic processes and individual cases and taken these points on board.
18. As a result of the responsive and inclusive approach to decision making taken by the Committee, the Lay Members have, to date, not felt it necessary to append any separate paper to a report.
19. Over the last year we have observed the heavy and demanding workloads required of Elected Members. Many will frequently be scheduled to be in one or more meetings at the same time that the Standards Committee is meeting, as well as having to prepare for debates and deal with mounting constituency business. On one occasion this led to a situation where only the Lay Members were present with the Chair and the Clerk at a Committee meeting, although we were assured that this had not happened previously. This rendered the Committee non-quorate and must be considered unacceptable given the cost to the public purse.

20. *With Parliamentary standards constantly under scrutiny and with the immense workload requirements which are placed on Elected Members, we would be keen to develop a greater understanding of what arrangements could be developed to support the attendance of Elected Members at this vital committee. The Lay Members reflect that if the House wants to send a strong signal, to both the public and Elected Members, that it takes standards seriously, it might consider introducing mechanisms to support Members of the Committee to prioritise their attendance at its meetings.*

The role of the Committee

21. Our experiences over the last year have led us to reflect that there is a lack of clarity regarding the Committee's remit. It's 'terms of reference' or 'authority' granted by the House are described as the 'usual powers' of a Select Committee. Standing Order 149 sets out:

- a. *There shall be a Select Committee, called the Committee on Standards –*
 - i. *to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Financial Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; and to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; and*
 - ii. *to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in any code of conduct to which the House has agreed and which have been drawn to the committee's attention by the Commissioner; and to recommend any modifications to such code of conduct as may from time to time appear to be necessary.*

22. The Committee appears to have overlapping roles without any clear separation of powers:

- (i). it considers matters relating to the conduct of Elected Members in relation to the Code of Conduct at a given time;
- (ii). it can recommend, to the House, modifications to the current code;
- (iii). it oversees the work of the Commissioner, who is deemed to be independent;
- (iv). it has powers to send for persons, papers, records, has the power to order attendance of any Member (MP) before it and can examine witnesses;
- (v). it makes reports to the House; and
- (vi). it recommends a tariff to the House where it considers a Member has failed to comply with the Code.

23. Lay Members reflect that this process may have a tendency to blur the boundaries between Committee functions and authority. It is also currently unclear who is in the 'strategic driving seat' in the Committee. Is it the Committee Chair, the Committee as a whole, the Commissioner or indeed even the Lay Members?
24. From our external experience, we note that this blurring of the boundaries is unusual in a self-regulatory system.
25. *We reflect that reviewing the Committee's terms of reference and in the process simplifying and streamlining them, could aid both public understanding of the process as well as serving to clarify the position for Elected Members. This would contribute to building confidence in the standards system.*
26. *A fundamental rewrite of The Code of Conduct and The Guide to the Rules, with close attention given to the way in which these are presented and communicated would, in our view, help ensure that these important documents are both seen to be fit for purpose and future proofed for the digital world and for the next Parliament. In that world there is a danger that growing pressure for more speedy decision making could lead to greater risk of error. However, at the same time, modern communications can enable far greater scrutiny, explanation requirements and understanding of behaviour.*
27. The role of the Committee is not always clear in respect of other key stakeholders that have an interest in, or responsibility for, the Standards arena such as The Speaker, the Leader of the House, the Whips, the House of Commons Commission, the Committee on Standards in Public Life and The Independent Parliamentary Standards Authority.
28. In the last year we have become aware of some issues being passed from Committee to Committee and taking a long time to reach resolution. With the public seeing at least three bodies having 'standards' in their titles – The Committee on Standards, The Committee on Standards in Public Life and the Independent Parliamentary Standards Authority (IPSA) - there is the potential for confusion, as has been evidenced by IPSA announcements (Dec 2013) regarding proposals to change MPs salaries and allowances. Indeed, the creation of IPSA itself, without a publicly communicated thorough and considered review of the impact that this would have on other standards bodies has, in our view, exacerbated this problem.
29. *In our view, we consider it may be helpful to ask whether the different parts of the standards system fit together appropriately: (i) is the current system generating unnecessary duplication; (ii) is a sufficiently co-ordinated approach being adopted; and (iii) are there any gaps in the current system which, if addressed, would future proof arrangements? Rationalisation would not only improve efficiency and public perceptions of value for money, but would help give assurance that issues are dealt with in a joined up, comprehensive and fair fashion. In short, this would signal a strong commitment to improving standards.*

Setting standards

30. The Lay Members observe that the regulation of Members' behavior is likely to be hindered by a lack of agreement as to whether their role is that of, an office holder, profession, job, small business manager, calling / vocation or indeed an art. In the last year it has been put

to us that, because of Parliamentary Privilege and the wide variety of types of constituency, Elected Members could not have a 'job description or statement of role'. Whilst noting these points, we do not consider that this is an excuse for failing to define what the public should expect in terms of the role, function and requirements of an elected office holder.

31. Everyone in employment has a job description. Those who are self-employed have a clear idea of what they must do to succeed and certainly have to comply with rules and regulations. Those on benefits also have to adhere to rules and regulations in order to qualify for, and retain, benefit. However, in an increasingly complex society, with ever increasing demands, requirements, constraints and laws, could there not be a basic statement of what the role of an MP involves?
32. We note that the Church of England has finally had to define the status of those who are employed in its work. The package of terms of service as defined in common tenure, whilst not going so far as to be seen as a contract of employment, at least provides a basis for an understanding regarding the formally designated vocational office holders and their parishioners, and the public, setting out some sense of what is expected of them.
33. Without some clarity in this area, it seems to us that, individual Elected Members are left to decide for themselves what is acceptable in terms of the out working and delivery of their role (or to copy their colleagues or predecessors). We venture to suggest that such an open ended approach to describing the role of the Elected Member does little to assist the public in developing a clearer understanding of the many functions undertaken by MPs and the standards both required and expected.
34. This position makes the task of both the Standards Committee and the Commissioner, in deciding whether standards of behavior have been breached, exceedingly difficult. It runs the risk that the Committee and the Commissioner are seen as making inconsistent decisions. It also makes it difficult to clearly set out a Code of Conduct.
35. Although there are clearly challenges in describing the role of Elected Members, the benefits of coming to at least a high level agreement of what is involved could aid decision making and increase public understanding. In the current economic climate, this is particularly important in the context of the IPSA proposed rise in pay and adjustments to other benefits.
36. The Lay Members have observed a number of elements that seem common to the role of most MPs, including:
 - Representing constituents and engaging in constituency activity
 - Contributing to the legislative process
 - Calling to account; holding the Government and Executive to account
 - Ensuring that Government works in the best interests of Parliament
 - Ensuring that mechanisms are in place to enable the enforcement of legislation
 - Taking part in the Party Political process

37. *The Lay Members reflect that, the failure to have a basic statement of what an elected member does, is perhaps the root cause of some of the problems that have been experienced in defining and enforcing standards of conduct in the House and in the setting of a fair fee for the delivery of that purpose.*
38. *Whilst recognising that considerable work has been undertaken regarding defining the role and function of an Elected Member, we consider that it would be helpful to draw together this research and in so doing to consider the associated terms and conditions of service for elected representatives elsewhere. This body of work could inform the contents of any future Code and Guide.*
39. Once the high level 'core purpose' of an Elected Member's role has been described / clarified, setting and assessing the standards of conduct which Members should meet can become more focused.
40. Over the last twelve months, the Lay Members have observed that the fragmentation of the current standards system has enabled some to say that the conduct which is expected from them is unclear. The opaqueness of the letter of the law has the potential to enable those so minded to ignore the spirit of the law, as encapsulated in the seven principles of public life. In our view, even once the Guide to the Rules is tightened up, this will remain a risk unless it is made clear that behavior will always be interpreted within the context of the spirit of the law.
41. *When in doubt, we consider that the seven principles of public life - selflessness, objectivity, integrity, accountability, openness, honesty and leadership - should be used as the ultimate yardstick by which members' behaviour should be judged. Taking this approach, we believe, will help ensure that the standards of behaviour expected of Elected Members are more aligned with other public facing organisations.*
42. From the public point of view, Elected Members set the rules / laws that the rest of the population live by. The Lay Members note that some of the rules that have been set for both public facing organisations and private corporations (e.g. expectations of behavior, commitment to openness and transparency or staff disciplinary procedures) do not appear to be fully followed by the House itself.
43. *When Members decide that different standards of behaviour apply to them, as compared to other external public figures, we are of the view that a clear evidence base should always be used to publicly explain the reasons for this decision.*
44. From our experience, these challenges are common in other forms of self-regulation and that this often leads to renewed focus on how things are done, rather than just what is put in the detail.
45. *We reflect that greater clarity in terms of how standards are implemented and who is responsible for this, would be beneficial. We consider that specific induction programmes for newly elected Members of the House and refresher training of all Members are important elements in embedding high standards, so that all Elected Members are up to date with any changes in the rules, expectations and requirements (similar to the process of 'Continuing Professional Development' found in many work places).*

Showing leadership on standards

46. The Lay Members reflect that whilst recognising that the House itself is the ultimate authority, it is not always clear where ownership rests in terms of leadership on standards in the House and how the Committee itself should contribute to, or lead, on this matter.

47. In the last year we note:

- a. the apparent difficulty the Committee has faced in getting the proposed changes (December 2012) to the Guide to the Rules discussed on the floor of the House;
- b. the reported reluctance of Members to sit on the Committee for Standards;
- c. the low levels of take-up for 'training sessions' about standards and registration requirements delivered by the Commissioner and Registrar (for both new and longer serving Members of the House) and the need for the Registrar to constantly chase and remind many Members of the House regarding the necessity to fill in their declarations of interests in relation to the current requirements.

48. Several of those we have met have said that Elected Members were often 'too busy to spend much time on standards.'

49. If the House is to show that it is not just paying lip service to the importance of high standards then, in our view, more needs to be done to ensure that leadership (one of the seven principles of public life), is shown in this area. We observe that the extent to which the Committee on Standards should lead in this area, and be at the forefront of championing wider cultural change, would be worth exploring.

How the Committee works

50. The Lay Members reflect that it could be helpful if the Committee had a strategic discussion, aided by research, about how best to maximise its impact. In the first instance, this would need to take place internally with the Chair and Committee members. However, there could be value in then widening this discussion to others with an interest in standards in the House.

51. Such a discussion could cover some basic questions such as:

- What should a twenty first century Standards Committee address?
- Is the Committee focusing on the most important things / emerging high risk areas?
- Has the Committee got the balance right between proactive and reactive work?

- Has the historic list of tariffs / sanctions had the desired effect of changing behaviour?
- Are the existing sanctions relevant in the 21st Century?
- How should the Committee measure success?
- Is the Committee doing enough to learn from elsewhere, be this from local or devolved governments, internationally or from the professions?

52. To help focus debate and build momentum, we are of the view that it would be helpful to have an annual planning session when the Committee discussed these issues and developed a strategic forward agenda - allowing of course for the time needed to respond to individual cases.

The Lay Members

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22 March 2014