



HOUSE OF LORDS

House of Lords Commissioner for Standards
Annual Report 2011–2012



Foreword

This report, my second, covers the period from 1 June 2011 to 31 May 2012.

Last year's annual report set out the background to the new structure of the Code of Conduct, Guide to the Code of Conduct and the post of Commissioner for Standards. This report focuses on my activities over the last year, without repeating that background.

I am conscious that the smooth investigation of complaints is not the sole criterion against which the effectiveness of the contemporary conduct regime should, or will, be judged. Rather, the aim should be to demonstrate that legitimate public concerns are addressed in a rigorous and transparent manner. I hope that my activities contribute to addressing such concerns.

The last year has seen a rotation of staff supporting me, but consistently the Clerk of the Parliaments has ensured that I have been provided with first-class assistance. I pay tribute to my colleagues past and present.

Paul Kernaghan CBE QPM

Review of the year

Complaints resulting in sanctions

In last year's report I drew attention to the criminal convictions of Lord Taylor of Warwick and Lord Hanningfield and said that all internal investigations relevant to the cases were suspended until the judicial process had been completed. Those criminal proceedings having been finalised in both cases, I was able to conduct my own investigations.

The complaint against Lord Taylor of Warwick was initially received in August 2009. Thus, his case was not subject to the new regime (which started at the beginning of this Parliament) and fell outside the remit of the Commissioner for Standards. However, I conducted the investigation on behalf and at the request of the Clerk of the Parliaments, who was the relevant investigative authority in respect of complaints about misuse of expenses made prior to May 2010.

Lord Taylor of Warwick was found guilty on six counts of “furnishing false information relating to accounts”, contrary to section 17(1)(b) of the Theft Act 1968. On 31 May 2011 he was sentenced to a total term of 12 months' imprisonment. In my investigation I found that Lord Taylor of Warwick had breached the rules of the members' reimbursement scheme by wrongfully claiming for night subsistence and travelling expenses to which he was not entitled. My findings were upheld by the Committee for Privileges and Conduct,¹ which recommended that Lord Taylor of Warwick be suspended from the service of the House for 12 months. The House agreed to that sanction.²

The case of Lord Hanningfield did not give rise to any complaint that he had breached the House of Lords Code of Conduct. However, I felt that his conduct should be investigated under paragraph 103 of the Guide to the Code of Conduct, which provides:

“In exceptional circumstances however, and with the agreement of the Sub-Committee on Lords' Conduct, he [the Commissioner] may start an investigation in the absence of a complaint, either at the request of the member concerned, or if by other means he becomes aware of evidence sufficient to establish a *prima facie* case that the Code of Conduct has been breached.”

In view of Lord Hanningfield's criminal conviction and the extensive public and media interest in this case, I was satisfied that exceptional circumstances existed. The Sub-Committee on Lords' Conduct agreed that I could begin an investigation.

¹ Committee for Privileges and Conduct, 8th report (2010–12): *The Conduct of Lord Taylor of Warwick* (HL Paper 210).

² HL Deb, 9 November 2011, col 240.

Lord Hanningfield was found guilty on six counts of “furnishing false information relating to accounts”, contrary to section 17(1)(b) of the Theft Act 1968. On 1 July 2011 he was sentenced to a total term of nine months’ imprisonment. In my investigation I found that Lord Hanningfield breached the rules of the members’ reimbursement scheme by wrongfully claiming for night subsistence to which he was not entitled. My findings were upheld by the Committee for Privileges and Conduct,³ which recommended that Lord Hanningfield be suspended from the service of the House for nine months. The House agreed to that sanction.⁴

Complaints in general

The complaints I dealt with between 1 June 2011 and 31 May 2012 are set out in the table below. The table only covers complaints disposed of during the last year; other complaints received but not disposed of during the reporting year will be covered in next year’s annual report.

Formal complaints received	10
Complaints subject to investigation	4
(a) complaints dismissed	1
(b) resolved by remedial action	1
(c) upheld and referred to the Sub-Committee for sanction	2
Complaints not investigated	6
(a) because fell outside remit	4
(b) because anonymous	0
(c) because repeating allegations of previous inquiry	0
(d) because trivial or vexatious	0
(e) because no supporting evidence establishing a <i>prima facie</i> case provided	2

Two fewer complaints were received than in 2010–11. However, two more were formally investigated than in 2010–11.

Last year’s annual report set out that where a member agreed remedial action by way of a letter of apology, that apology should be directed to the chairman of the Sub-Committee on Lords’ Conduct. In the one case this year in which I agreed remedial action, the member concerned duly apologised in writing to the chairman. The letter of apology, together with my report, is on my webpages on the parliamentary website.⁵

³ Committee for Privileges and Conduct, 9th report (2010–12): *The Conduct of Lord Hanningfield* (HL Paper 211).

⁴ HL Deb, 9 November 2011, col 240.

⁵ <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/the-commissioner-for-standards/>

I have continued my practice of assisting complainants, when appropriate, by referring them to other regulatory or investigatory bodies where the complaint is relevant to them and outside my remit.

Correspondence from members of the public

I received many letters from members of the public which did not amount to formal complaints but concerned other matters. A lot of them expressed disquiet at aspects of the standards regime. Many letters were prompted by media reports about the repayment of expenses wrongly claimed and the associated issue of the return of members suspended from the service of the House.

The role of the Commissioner for Standards is clearly set out in the Guide to the Code of Conduct. I may agree remedial action in cases where “the complaint, though justified, is minor and acknowledged by the member concerned.” In other cases where I find that a breach of the Code has occurred, the question of a sanction is one initially for the Sub-Committee on Lords’ Conduct and then for the Committee for Privileges and Conduct. Thus, it is not my role to decide on sanctions. However, I feel I should formally pass on the concerns of correspondents to my office.

It would not be appropriate to name individual peers or cases, but the concerns brought to my attention concerned two scenarios. First, where a peer had been suspended from the service of the House in connection with wrongly claimed expenses but it appeared that the peer might resume his or her service without having repaid all the wrongly claimed expenses. Secondly, the more fundamental issue of whether or not it was right for a member of the House to be allowed to resume his or her service notwithstanding a criminal conviction resulting in a term of imprisonment which, if the member were an MP, would automatically result in his or her expulsion from the House of Commons.

The first situation was addressed by the House in December 2011 when it agreed that, where a member has been ordered to repay money and has not repaid it, one month before their suspension ends a motion should be moved inviting the House to agree that the suspension should be extended until the money is repaid, or until the end of the Parliament, whichever is sooner. If a new Parliament begins and the money is still

⁶ House Committee, 2nd report (2010–12): Recovery of money wrongly claimed by Members (HL Paper 238); HL Deb, 20 December 2011, cols 1670–84.

outstanding, a motion should be moved inviting the House to suspend the member from the beginning of the new Parliament until the money is repaid.⁶ This development seems to meet the concerns that were expressed to me. I hope it will become more widely known, as it shows the House responding to legitimate public concern.

The second situation was addressed in a recent attempt to alter the law in such a way as to expel from the House members who are sentenced to a period of more than one year in prison. Such a change in the law would make the House of Lords' position mirror that of the House of Commons. I note that the House of Lords in July 2012 passed the House of Lords (Cessation of Membership) Bill, a private member's bill which would make such a change. The bill is currently before the House of Commons but, at the time of writing, has not been taken up by any MP. Whilst it is not for me to advocate the merits of legislation before Parliament, it seems that the Lords has taken a significant step within its powers to address the issues brought to my attention by correspondents. That said, I note that changes in this area would be prospective so would not affect the members whom correspondents wrote about.

Meetings, etc.

During the reporting year I completed my round of meetings with the party groups and the Crossbench peers. On several occasions I provided advice to individual peers on the relevant rules and guidance issued to members, where such advice related to matters within my remit.

Parliamentary accountability and standards of integrity are, not surprisingly, issues of universal interest. In the course of the year I was invited to speak to the following groups and regulators whilst they were in London:

- Integrity Commissioner for Tasmania;
- Ugandan Parliamentary Commission;
- Council of Europe Group of States against Corruption (GRECO) evaluation team.

I hope to continue dialogue with international partners about the standards regime of the House of Lords and am always interested in how other jurisdictions manage similar issues.

I have continued to attend regular meetings of the “G7”, an informal group of heads of advisory and regulatory bodies.

I also contributed to the review of the House of Commons Code of Conduct undertaken by the Parliamentary Commissioner for Standards.

Review of the Code of Conduct

The Code of Conduct for Members of the House of Lords and Guide to the Code of Conduct set out a process for them to be reviewed and amended in the light of experience. I seek to play my part in informing such reviews. The Committee for Privileges and Conduct agreed that I would advise the Sub-Committee on Lords’ Conduct of cases where I felt a referral to the police was appropriate on the basis of information and evidence collected by me.

The future

This report documents a relatively low level of complaints. However, events during the year under review, and more recently, highlight the significant publicity that some complaints can generate. I note that in the complaints that have been received since May 2012 there appears to be a trend towards parliamentarians submitting complaints against fellow parliamentarians. I should also highlight that in many recent cases members have been very co-operative when complained about. In such cases, the failing has often involved incorrect registration or declaration of interests. Members have usually acknowledged the failing and been concerned about their failure and about the potential damage they may have caused to the collective reputation of the House. This attitude reflects well on them and on the underlying commitment by members generally to the standards of behaviour set out in the Code of Conduct.