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The conduct of Lord Tope

REPORT FROM THE COMMISSIONER FOR STANDARDS

Summary of the complaint

1. I received a complaint dated 10 May 2018 from Mr Andrew Wood about Lord Tope.¹ The complaint was wide-ranging in its scope, but the principal allegations related to Lord Tope's activities in relation to PSP Facilitating Limited (PSP). More specifically, the complaint questioned the use made by PSP of House of Lords facilities and PSP's commercial activities to which Lord Tope, it was alleged, provided support.
2. I carried out a preliminary assessment of the complaint and decided to investigate three aspects of it: the use of House of Lords facilities; parliamentary influence and advice; and declaration of interests. I wrote to Lord Tope in these terms and invited a full and accurate response. In doing so, I drew his attention to the relevant paragraphs of the Code of Conduct and the Guide to the Code of Conduct: paragraph 107 of the Guide to the Code (use of facilities), paragraph 8 (c and d) and 14 of the Code, along with paragraphs 15–30 of the Guide to the Code (parliamentary influence and advice), and paragraph 10(b) of the Code (declaration).

Lord Tope's response

3. Lord Tope responded in a letter of 24 August 2018 in which he rejected all the allegations.² His response largely speaks for itself.
4. In summary, he stated that he had not accepted any financial inducement as an incentive or reward for exercising parliamentary influence, or accepted payment or other incentive or reward in return for providing parliamentary advice or services. In addition, he stated that he has no direct financial interest in PSP either as a shareholder or with its financial transactions beyond the consultancy role which he has registered under category 2, with no addition to category 3, on the advice of the Registrar of Lords' Interests.³
5. On the use of facilities, Lord Tope stated that the use of House of Lords facilities had only been to discuss and develop matters of public policy and had not been concerned with commercial or promotional purposes which would engage the Code of Conduct. Furthermore, Lord Tope stated that he had received no benefit from sponsoring the event complained about.
6. During the investigation, I discovered correspondence between the House of Lords Director of Facilities and the Banqueting Manager showing the Director of Facilities instructing the Banqueting Manager to ask Lord Tope whether PSP were deriving any direct or indirect financial or material gain by holding an event in the House of Lords.⁴ There is no record of the proposed discussion, but there is no reason to believe that it did not happen, and if

1 Appendix A

2 Appendix B

3 Paragraph 3 of the Guide to the Code of Conduct states: "A member who acts on the advice of the Registrar in determining what the member is required to register or declare as a relevant interest fully satisfies the requirements of the Code of Conduct as regards registration or declaration."

4 Appendix C

Lord Tope had not been able to provide the necessary assurances, it would seem certain that the matter would have been escalated to the Director of Facilities. There is no evidence of this matter being escalated.

7. Regarding the issues of parliamentary advice and declaration of interests, Lord Tope stated that he had not given, or been asked to give, parliamentary advice to PSP, and, additionally, he rejected outright acting as a paid advocate in any proceedings of the House. Lord Tope stated that he has never spoken in the House (a search of *Hansard* confirms this) or to a Minister about anything relating to PSP. Rightly, Lord Tope stated that he was under no obligation to declare any interest at the event, which was self-evident.
8. The complainant's evidence is, in my view, speculative and thin, but I deemed it appropriate under the circumstances to put the allegations to Lord Tope. His response dealt comprehensively with the allegations and I have unearthed no reason to believe that Lord Tope's very clear and straightforward responses to the allegations are false.
9. In the light of this, I have not deemed it necessary to take matters any further.

Finding

10. The complaint is dismissed.

Lucy Scott-Moncrieff, CBE
Commissioner for Standards

Appendix A: Complaint to the Commissioner for Standards concerning Lord Graham Tope and PSP Facilitating Limited, 10 May 2018

Introduction

I would like to complain about the activities of Lord Tope in his promotion of a commercial business for which, according to his register of interests entry, he is a paid management consultant (and indeed possibly holds other roles).

The business concerned is PSP Facilitating Limited (company registration number 06132334) which trades under the name “Public Sector plc”. Henceforth this is referred to as “PSP”. I have reservations about:

- i. the use by PSP of House of Lords Facilities and
- ii. PSP’s commercial activities to which Lord Tope lends his support and seemingly that of his office and the prestige of the House of Lords.

In particular, but without limitations, I have reservations about the support he has given to PSP’s “Commission of Inquiry” hosted by him at the House of Lords and the Report produced as a result of the “Commission’s” meetings.

I have raised these issues with Lord Tope on five occasions and on each occasion, he has refused to give any meaningful response. Annex A [Reference is to a document that has not been published] contains the relevant email correspondence.

The use by PSP of House of Lords Facilities

I consider Lord Tope to have committed a direct breach of the House of Lords banqueting and/or facilities rules in that he hosted several events which were paid for by PSP and/or its major shareholders, all of whom are private individuals or private equity managers/funds.

In correspondence Lord Tope says he his “role was to host the meeting of the 21 Councils of the Councils Consortium Group (CCG) booked and paid for in the proper way at the House of Lords.”

In the case of the first such meeting on 23 January 2017, I know this not to be the case as I attended it personally. The CCG and its subsequent “Commission” (of which more below) received only passing references by Richard Smith (PSP’s Chairman and seemingly the main host) and to my recollection none at all from Lord Tope. The overwhelming purpose of the meeting was to mark the 20 year anniversary of PSP. This is evidenced by the certificate I was given at the time (see Annex B [Reference is to a document that has not been published]).

This is a clear breach of the House of Lords rules which state:

“Members may not sponsor promotional functions for companies in which they have a direct financial interest”

and

“No commercial promotion or demonstration, or book or product launch, is permitted by any person or external organisation, including on publicity material for the function. The only exceptions permitted are for book launches for books written by Members or primarily about them or for publications produced by UK Registered Charities”.

In the case of subsequent meetings, although not present I also do not consider this to be the case.

Specifically, the meetings on 20 June 2017, 9 November 2017 and 23 January 2018 seemingly constituted the “Commission of Inquiry” that resulted in the “Putting Relationships First” Report see Annex C [Reference is to a document that has not been published]. This Commission was purportedly instituted by the “Council Consortium Group” or “CCG”

The CCG purportedly exists to promote the “Relational Partnering” model — this is a model that is only practised by PSP. However, I consider the CCG to be a sham and in fact the CCG is merely a vehicle for promoting the commercial activities of PSP (in the case of its council members perhaps unwittingly, but certainly wholly intentionally by the principals of PSP).

Put simply the CCG appears to be a trading name or similar smokescreen for PSP and the meetings concerned were a public relations exercise for PSP to encourage more business from its existing partner councils and new business from the “guest councils”.

Indeed the CCG’s own website only has a “coming soon” place marker (<http://www.lg-ccg.com/>) with the main detail being hosted on PSP’s website (<https://www.publicsectorplc.com/local-government-ccg/>). The contact persons are all employees of PSP.

In summary all of the meetings in question were in fact organised for PSP’s benefit. The various supplements to the Ministerial Journal advertising activities similarly have multiple references to PSP and the contact details given are for PSP employees.

Perhaps more brazenly, not only were the meetings convened to promote the business interests of PSP, but on at least one occasion it was also used to promote the interests of a company in which PSP’s funder Cabot Square Capital is a shareholder viz.: Net Zero Buildings.

Aside from the substance of the meetings, a freedom of information request has also shown that the payments for the events (running into tens of thousands of pounds) were made by PSP and “WPG Treasury Limited” — see Annex D [Reference is to a document that has not been published]. Again a clear breach of the Code.

This latter organisation is part of the William Pears Group, whose principals were until recently showing at Companies House as major shareholders in PSP’s group.

The “Commission” and its Report

In addition to this direct breach I have raised another series of concerns with Lord Tope that he has failed to address in any meaningful way.

This “Commission’s” meetings resulted in at least three special supplements in the Municipal Journal (see Annex E [Reference is to a document that has not been published]). It is clear from the supplements that the various Commission meetings took place in the House of Lords and were hosted by Lord Tope. Again see the correspondence in Annex A [Reference is to a document that has not been published].

At the conclusion of this the “Commission” produced a Report.

The supplements and the subsequent Report amount to a lengthy public relations piece for PSP — the Supplements are all headed “Public Sector plc” and these and the Report make multiple favourable references to PSP.

Lord Tope, *inert alios*, wrote a glowing Foreword to the resulting Report.

I would not consider this appropriate behaviour by Lord Tope for an organisation to which he was unconnected let alone one with which he has a declared financial interest. It is a blatant misuse of House of Lords resources.

He clearly did so in his capacity as a parliamentarian. Paragraph 18 of the Guide to the Code of Conduct provides:

“whenever they act in their capacity as parliamentarians, members are required to base their actions solely upon consideration of the public interest.”

It is not clear to me that he has done so and I ask you to investigate accordingly.

I also ask you to investigate the following potential breaches:

- Whether a financial inducement as an incentive has been accepted for exercising parliamentary influence contrary to paragraph 8 (c) of the Code
- Whether Lord Tope sought to profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward for providing parliamentary advice or services contrary to paragraph 8 (d) of the Code
 - It is worth noting specifically in this regard that the Report expressly seeks to influence not only local government but also the working of parliament (see the reference to the CLG Select Committee on page 35 of the Report) and “all public sector bodies” (page 34).
- Whether Lord Tope has acted as a Paid Advocate for PSP contrary to paragraph 14 of the Code.
 - It seems clear from the register of interests that he is paid by PSP and the activities of the Commission and the content of the Report seem aimed at conferring exclusive benefit on PSP.
 - Whilst PSP might maintain that the purpose of the Commission was simply to promote the Relational Partnering model generally, this is wholly undermined by the fact that (i) the Commission was chaired by PSP’s executive Chairman (Richard Smith) and (ii) seemingly no other private sector “facilitators” or funders were invited other than PSP and Cabot Square Capital (PSP’s funder).
- Whether Lord Tope has, in his refusal to give any meaningful response to my legitimate queries (following no less than five requests) and his various efforts to “pass the buck” has acted in accordance with various of the general principles of the Code including those I specifically raised with him, viz:
 - *Integrity*: holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

- *Accountability*: holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- *Openness*: holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- Similarly, whether Lord Tope has, in his refusal to give any meaningful response to my legitimate queries has resolved the apparent conflict between his personal interest and the public interest in favour of the public interest
- Whether Lord Tope *declared* (as opposed to registered) his interest in PSP at the appropriate occasions. You are of course aware of the requirement to *declare* an interest in addition to its registration. I do not recall such a declaration at the meeting I attended and certainly there is no such declaration in the Report itself
- Whether Lord Tope should have registered his financial arrangements with PSP under more than category 2. I raised this with Lord Tope by email some two weeks ago (see Annex A [Reference is to a document that has not been published]) but have not received a reply. In particular it seems entirely possible that his activities fall within Category 3. Paragraph 60 of the Guide states that in these circumstances he should pay particular attention to the prohibition on accepting payment for parliamentary advice.

Conclusion and Remedies sought

There are several further points you should note. Although I have previously in correspondence with Lord Tope expressed the view that there was no suggestion of wrongdoing on his part, I am not necessarily still of this view. Not least in the light of the result of the freedom of information request.

That said, even if he were genuinely duped by the fiction of the CCG and the brazen self-promotion of Richard Smith and PSP afforded by the Commission and its Report, he should not have been.

I draw your attention to the various points raised in my emails to Lord Tope (see Annex A [Reference is to a document that has not been published]) that should have set multiple alarm bells including:

- The formal constitution (or lack thereof) of the CCG
- The formal constitution of the “Commission” including the fact that the only member of the Commission (as opposed to contributors) was seemingly Richard Smith
- The fact that despite the large number of contributors, they did not represent the full spectrum of those involved in public/private joint enterprises (of which Relational Partnering is but one example) and of the thousands of companies in this wider space, only one private sector company is mentioned, namely Public Sector PLC
- The complete lack of independence of the Commission including the fact that the Commission Chairman is Richard Smith who is also Chairman of Public Sector PLC and that this conflict of interest is not disclosed anywhere in the Report
- The fact that PSP was funding (in whole or in part) the work of the Commission and the production of the Report, and that this is not disclosed

- The poor and confused terms of reference of the Commission and the fact that the last four appear to pre-suppose that Relational Partnering is the solution before the Commission had even first sat.
- The fact that the Commission ignores entirely the critical issue of funding, whilst at the same time having PSP's own funder attend

Paragraph 140 of the guide provides that on a breach of the Code the Member in question may be required to "regularise the position". By this I think the following are appropriate:

- He should not host any further meetings of the CCG or PSP at the House of Lords
- He should reply to points raised in my various emails in a level of detail acceptable to me
- If he is not able to do so he should withdraw his Foreword to the Commission Report and require the Commission to communicate this to those provided with a copy.

I invite your review of all of the above. Please let me know if you need any further information.

Appendix B: Letter from Lord Tope to the Commissioner for Standards, 24 August 2018

With reference to your letters of 23 July and 1 August, below is my response to the above complaint.

As you rightly say, the complainant has presented “a range of allegations”. Rather than provide detailed, and inevitably lengthy, replies to each of them, I have tried to concentrate on the three main areas which I believe relate directly to the Code of Conduct, namely:

- the use of House of Lords facilities;
- the provision of parliamentary advice;
- the declaration of interests.

Needless to say, I am happy to provide any further information you require and to answer any further questions.

General Response

I do not know Mr Wood, nor as far as I am aware have I ever met him, although I note that he was present at one of the events I hosted. I understand, of course, that motivation for the complaint has no bearing on its validity or otherwise. However I noted, at the end of his first email to me dated 11 February, he stated that “a business in which I am a partner is in High Court litigation with PSP Facilitation Limited”.

I had no knowledge of that dispute and have had no involvement with it. His email sought a large amount of detailed information, most of which I did not have nor did I feel it was my responsibility to supply, particularly as I assumed it must have some bearing on the legal dispute about which I knew nothing. I therefore replied referring him to PSP for the detailed information he was seeking but, “to try to be helpful”, sending him the three MJ Supplements, which were included in the pack you sent me on 1 August and which I thought gave answers to many of his questions.

Mr Wood’s first email of 11 February arrived on the first Sunday of the Lords’ recess when I was on a short break in Lisbon with my wife. I opened it on receipt and saw it was not something I could respond to immediately. I replied on my return home on Monday 19 February — the day before the Lords resumed. On my return to my Lords office on 20 February, I found that, in my absence, Mr Wood had left two very aggressive messages on my voicemail complaining that I had not replied to his email, even though he knew I had opened it.

My initial wariness of becoming inadvertently involved with a legal dispute about which I knew nothing, together with the rather aggressive tone of Mr Wood’s voicemail and email messages, are the reasons why my subsequent replies to him were not what he expected of a “public servant”.

I do not believe that I have failed to comply with Paragraph 8 of the Code of Conduct. In particular I have not accepted any financial inducement for exercising parliamentary influence or accepted payment for the giving of parliamentary advice or service.

Use of facilities

My involvement with PSP Facilitating limited (PSP) has been solely in relation to its promotion of the concept of “Relational Partnering” as an issue of public policy through its Council Consortium Group (CCG).

Relational Partnering

It proposes a “better way in which private and public sector worlds can cooperate together”. It is described as a “fourth option” for Councils (and presumably other public sector bodies) to consider in addition to status quo; undertaking property projects themselves; or using a standard form of public/private partnership.

Council Consortium Group

Its membership comprises representatives of the 21 Local Authorities that have already agreed individually to adopt this governance model. Its purpose is to consider issues and experience relating to the use of this model and to develop it further.

My personal interest

In 1997 I was one of three Peers with considerable Local Government experience (Lord Bowness and Baroness Farrington of Ribbleton were the others) to put my name to the Foreword to a book of contributions about the public/private relationship put together by Richard Smith. We stayed in touch and offered occasional (unpaid) advice whilst he developed the concept of relational partnership. By 2016 PSP was in a financial position to offer me a small consultancy for this advice and guidance.

This has always related to the concept of relational partnering as an option that Local Authorities should at least consider. I have never had any involvement with the commercial activities of PSP or its partners, nor with discussions with any individual Local Authorities about particular property issues or proposals.

My response

I have no direct financial interest in PSP either as a shareholder or with its financial transactions beyond the consultancy referred to above.

I have never had any involvement with the commercial activities of PSP, nor have the facilities of the House of Lords ever been used for such purposes. The use of House of Lords facilities has only ever been to discuss and develop this model of governance as a matter of public policy.

The complainant alleges breaches of the House of Lords Banqueting Rules. The General Guidance and Rules issued by the Banqueting Department make it clear that there must be no material gain for the sponsor. I received no benefit from sponsoring the events complained about.

The Guidance draws a distinction between company events which are promotional which are not permitted and events for social or policy discussion. The functions I hosted fell clearly into the latter category.

Parliamentary Advice

I have not given, nor recall being asked for, Parliamentary Advice to PSP, the CCG or matters related to their activities. My involvement was because of my local government knowledge, experience and contacts from 40 years as a London

Borough councillor (including 13 years as Leader of the Council), 8 years as a London Assembly (Greater London Authority) member and 20 years as a Member of the EU Committee of the Regions, rather than as a Parliamentarian.

In so far as Paragraph 18 of the Guide to the Code of Conduct may apply, I do not consider facilitating the discussion of Relational Partnering as a possible model for local government to be contrary to the public interest.

I have not acted as a paid advocate in any proceedings of the House contrary to Paragraph 14 of the Code of Conduct. Indeed I am not aware of any such proceedings.

Declarations of Interest

I have never spoken in the House or to a Minister or Civil Servant about anything relating to PSP or indeed relational partnering. If I did, I would, of course, declare the interest.

The complainant suggests that I should have formally declared my interest at the event(s) I hosted in the Lords. As far as I am aware, this is neither required nor usual practice, but my long standing general interest in relational partnering and support for the CCG would have been very clear to all present.

I consider that Paragraph 10 of the Code of Conduct relating to Declarations of Interest refers to Parliamentary proceedings and communications with Ministers or Public Servants and not meetings that are the subject of this complaint.

In his email to me dated 26 April the complainant said that it “seemed likely” that the Interest I had declared under Category 2 in the Register should also be declared under Category 3. I did not know the answer, so checked with Nick Cross, who maintains the Register, and received the following reply from him by email dated 17 May “I have checked with the Registrar and we are content that this should remain in category 2 with no addition to category 3.”

Other matters

The concluding paragraphs of the complaint raise a number of issues regarding the CCG, the manner in which it was constituted and proceeded, and its report. These are matters of opinion and whether or not they are well founded will be determined by individual local authorities if or when they consider the Relational Partnering model. I submit that these matters have nothing to do with any alleged breaches of House of Lords Rules.

Under paragraph 140 of the Guide to the Code of Conduct the complainant seeks further replies to his queries. I have given such information as I have, which is limited, and I have indicated to whom those enquiries should be directed. I see no reason to seek to withdraw the already published Foreword to the Report in question, even if that were practical. It is anyway a matter over which I have no control.

I hope this is sufficient information to enable you to complete your investigation, but I am happy to clarify any points or provide any further information.

Appendix C: Correspondence between the Director of Facilities and the Banqueting Manager

Email from the Director of Facilities to the Banqueting Manager, 6 May 2016

It is essential that Lord Tope completes the 'Declaration by sponsoring Member'.

Pls ask Lord Tope if he is content that PSP Plc are not deriving any direct or indirect financial or material gain by holding the event with us, and please ask him whether potential clients are being invited to the event.

Happy to answer any questions Lord Tope has.

Email reply from the Banqueting Manager to the Director of Facilities, 6 May 2016

Thank you

I will ask Lord Tope to pop down next week.