

HOUSE OF COMMONS STANDARDS CONSULTATION

Submission by Transparency International UK to the House of Commons Standards Committee, 22 October 2020.

INTRODUCTION

The seven Nolan Principles provide the foundation for the House of Commons' code of conduct.¹ These principles are an integral part of building positive social norms and practices in our democratic system. However, parliamentarians may have different interpretations of what these principles look like in practice, which can lead to confusion and behaviour that undermines public trust. These principles should translate into **clear and concise rules** in order to ensure the integrity of our parliamentarians and to stop MPs inadvertently breaking them. Moreover, **frequent reflection and revision of these rules is essential to maintaining their effectiveness**. We propose four key recommendations to update the current Code of Conduct.

KEY RECOMMENDATIONS

1. **Increase transparency over MPs' financial interests** by publishing them as structured open data.
2. **Tighten and clarify the restrictions on MPs' outside employment**, in particular the ban on paid advocacy.
3. **Reintroduce transparency over investigations by the Parliamentary Commissioner for standards** into alleged breaches of the Code of Conduct.
4. **Implement the recommendations from the Committee's report on the sanctioning regime**.

1. Increase transparency over MPs' financial interests by publishing them as structured open data as a matter of priority

The transparency of MP's interests is an essential tool to ensure that the **public can scrutinise any potential undue influence and conflicts of interests**. As is the case for political donations, which are published by the Electoral Commission, information on MPs financial interests should be available in a way that allows members of the public to analyse them at the click of a button. For example, it should not take more than a few seconds to understand how many outside interests an MP has, and their remuneration for these posts over the course of one or multiple parliaments. However, this is currently not the case.

The current **register of members' financial interests is not easily searchable, user friendly or analysable**. The data are published as PDFs, which makes any historical analysis very time consuming. To undertake the tasks mentioned above could take days, not seconds, to complete. Publishing members' interests in an inaccessible format like this gives the impression that Parliament is not serious about transparency. At worst, it looks like it is deliberately making it difficult for the public to understand MPs' outside interests.

The Committee for Standards and Public Life (CSPL) recommended that the register be made more accessible and useable in their 2009 report² and again in their 2018 report.³ In 2017, we

¹ The seven principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2> [Accessed 19/10/2020]

² Committee on Standards in Public Life, *MPs' expenses and allowances supporting Parliament, safeguarding the taxpayer* (November 2009) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336903/MP_expenses_main_report.pdf

³ Committee on Standards in Public Life, *MP's Outside Interests* (July 2018) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721697/CSPL_MPs_outside_interests_-_full_report.PDF

spent a significant amount of time working with the Parliamentary Digital Service to create the framework for a system that would help make MPs' financial interests more accessible and analysable for the public. Despite our clear blueprint for reform, nothing substantive appears to have happened since and we are at a loss as to why.

The register of members financial interests should be published online as machine-readable, open data as soon as possible. Any further delay would significantly undermine confidence in Parliament's commitment to openness.

2. Tighten and clarify the restrictions on MPs' outside employment, in particular the ban on paid advocacy

The **current rules and enforcement concerning the outside employment of MPs are inadequate** and give rise to the perception, and quite possibly the reality, that MPs can be bought by private interests. Since 2010, there have been 14 major lobbying scandals involving MPs or Lords accused of being influenced unduly by outside interests; nine of which were in the last five years. Broadly, our analysis of these scandals and the existing rules has identified three main issues.

Firstly, parliamentarians taking positions or receiving remuneration for acting as paid representatives for outside interests seeking to influence public officials here or abroad. This is incredibly serious conduct and reminiscent of the behaviour during the late 1990's, which brought the House into disrepute. Yet decades on, we still see MPs engaging in similar misconduct.

Ian Paisley Junior MP breached the parliamentary code on paid advocacy when he accepted an all-expenses paid trip to Sri Lanka and subsequently lobbied against supporting a UN resolution on Sri Lanka.⁴ David Morris MP breached the rule on paid advocacy 'inadvertently' when he made an intervention in the Commons and lobbied a minister on an energy project relating to a recent donor of his.⁵ And an MP contractually employed by a health science company as a 'consultant' allegedly lobbied the government in order to secure contracts.⁶ We note this is still an accusation, and due to the secrecy enforced upon the Commissioner for Standards, we do not know if it is under investigation. However, there is strong prima facie evidence to show there was at least a misunderstanding of the intention of the rules.

MPs currently may not be employed as 'lobbyists' but they may undertake activities that constitute lobbying. These examples show there is far too much ambiguity in the current rules. **There should be absolute clarity in prohibiting MPs from lobbying the government or others on behalf of their private interests, including all those that they are required to declare.**

Currently, the code of conduct bans paid advocacy, but the current wording may be causing a degree of ambiguity. The guide accompanying the code states that members must not lobby government if this would 'confer benefit exclusively' on the organisation or individual employing the Member.⁷ This definition is unnecessarily narrow and it provides room for evading the rule's intent. Moreover, the presentation and explanation of the code of conduct may allow misunderstanding, as seen in the case of David Morris, who the Commissioner found to have inadvertently breached the rules due to a 'misunderstanding' on Morris's behalf. **The wording around the current paid advocacy ban should be simplified** so that it is clear any paid lobbying to further the interests of anyone declared as a registerable interest is unacceptable, regardless as to whether it confers exclusive benefit to the payer.

Secondly, parliamentarians providing advice on how to influence parliamentary or governmental affairs. In our report *Accountable Influence*, we highlight the scale of how many parliamentarians are taking positions or receiving remuneration for paid advisory work. During one year alone 73

⁴ Committee on Standards, *Ian Paisley Jnr*, <https://publications.parliament.uk/pa/cm201719/cmselect/cmstandards/1397/139702.htm> [Accessed 15/10/2020]

⁵ https://publications.parliament.uk/pa/cm5801/cmselect/cmstandards/771/77103.htm#_idTextAnchor008

⁶ <https://www.theguardian.com/politics/2019/apr/07/mp-owen-paterson-lobbied-government-for-firm-he-worked-for> [Accessed 15/10/2020]

⁷ House of Commons, *Code of conduct together with the guide to the rules relating to the conduct of members*, p.36 <https://publications.parliament.uk/pa/cm201719/cmcode/1882/1882.pdf>

MPs – over 10 per cent of the Commons – had some form of external advisory role between 2014 and 2015.⁸ The cumulative take home pay from this work was around £3.4 million. Whilst it is unclear whether these advisory roles related to Parliamentary affairs, there is obviously a significant risk that they could have been and so they pose a risk to the integrity of the House. The Scottish Parliament⁹, National Assembly of Wales¹⁰ and House of Lords all acknowledge this risk and prohibit members from ‘accepting payments in return for parliamentary advice’.¹¹ We support the Committee on Standards and Public Life’s recommendation to **ban parliamentarians from holding paid advisory roles**.¹²

Thirdly, we are concerned that whilst the code requires the registration of un-remunerated interests,¹³ how often and how thoroughly MPs do register these remains variable. This is in contrast with the ministerial code where this requirement to register is more readily adhered to. Parliamentarians’ un-remunerated interests can give rise to conflicts of interest, which other members and the public should be aware of. Whilst an interest may be un-remunerated to begin with – for example, unpaid directorships – the MP may receive a benefit from the interest later. A clearer drafted rule in the code of conduct, which was more explicit about materiality, would help to address the uneven registration of un-remunerated interests. For example, the code could explicitly state that membership of clubs of professional bodies with assets in excess of £1million have to be registered, as do shareholdings of a material percentage in inactive companies even with empty balance sheets.

3. Reintroduce transparency over investigations by the Parliamentary Commissioner for standards into alleged breaches of the Code of Conduct

To enable transparency in the enforcement of parliamentary standards, the House of Commons should once again **empower the Standards Commissioner to publish information about corruption-related cases under investigation**, with exemptions applied where complainants have expressed fear of reprisal.

Since 19 July 2018, the Commissioner ceased to be able to publish information about ongoing cases. This protects the identity of those under investigation for bullying, harassment or sexual harassment. However, we believe a brief description, including the name of the MP, of any corruption-related, ongoing investigation should be published, as is still the case in the House of Lords.¹⁴ We agree with the Commissioner’s statement that ‘I am not persuaded that we have yet achieved a proper balance between transparency and accountability, while protecting the confidentiality of the parties to such allegations.’¹⁵ Out of the aforementioned 14 major lobbying scandals that have occurred since 2010, there are four cases where we still do not know if there is an investigation or not. **There is a clear public interest in knowing if our parliamentarians are subject to investigation.**

Moreover, as the Commissioner has previously outlined, **publishing ongoing cases can uphold the integrity of both the Commissioner and MPs**. Announcing that an investigation has begun cultivates the public’s trust in the Commissioner’s ability to hold politicians to account.

⁸ Transparency International, *Accountable influence: bringing lobbying out of the shadows* (September 2015) <http://www.transparency.org.uk/publications/accountable-influence-bringing-lobbying-out-of-the-shadows/>

⁹ The Scottish Parliament, *Code of conduct*, Section 5 (7) (January, 2020) https://www.parliament.scot/Parliamentaryprocedureandguidance/202005_CCEd07Rev02202007.pdf

¹⁰ National Assembly for Wales, ‘Guidance on lobbying and access to Assembly Members’, *Code of conduct for Assembly Members and associated documents*, pp.103-140 paragraph 8 https://senedd.wales/en/memhome/code-conduct-mem/Documents/Standards%20Compendium_draft_October%202015_v2-FINAL.pdf

¹¹ House of Lords, *Code of conduct for members of the house of lords guide to the code of conduct code of conduct for house of lords members’ staff*, p.2 paragraph (8)(d)(July 2020) <https://www.parliament.uk/globalassets/documents/lords-commissioner-for-standards/hl-code-of-conduct.pdf>

¹² Committee on Standards in Public Life, *MP’s outside interests*, Recommendation 10

¹³ House of Commons, *Code of conduct together with the guide to the rules relating to the conduct of members*, pp.28-29 paragraph (55)(b) (January 2020) <https://publications.parliament.uk/pa/cm201719/cmcode/1882/1882.pdf>

¹⁴ <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards-/house-of-lords-commissioner-for-standards-current-inquiries/> [Accessed 15 October 2020]

¹⁵ House of Commons, *The Parliamentary Commissioner for Standards, annual report 2018–19* (July 2019) <https://www.parliament.uk/globalassets/documents/pcfs/pcs-annual-report-2018-19.pdf> p.10

Similarly, if there is uncertainty over what is being investigated and what is not, then ‘unsubstantiated allegations can remain in circulation’.¹⁶ If cases under investigation are published, then the MP and the public can have a definitive answer as to the developments of cases.

4) Implement the recommendations from the Committee’s report on the sanctioning regime.

There must be clear and credible deterrents for serious breaches of the code of conduct, whilst also being proportionate and fair. Two principles that are essential to any sanctions regime are:

- **Deterrence:** there are clear expectations of the standard penalties issued for administrative and more serious breaches; action is taken when the rules are broken; and those who have broken them are held to account publicly.
- **Accountability:** those sanctioned, the public and others are able to judge the suitability of any sanction, and seek redress if they think it is unjust.

We support the Committee’s recommendation from their report ‘Sanctions in respect of the conduct of Members’¹⁷ to introduce a new suite of sanctions that will address the ‘sanctions gap’ that exists between issuing an MP suspension and requiring an MP to make an apology. We support the idea, notwithstanding issuing a suspension, that the House confers many of these to powers to the Committee, such as issuing mandatory training sessions for MPs. This would ensure greater deterrence.

We support the Committee’s recommendation from their report to introduce greater consistency in imposing sanctions.¹⁸ In particular, the publication and standardisation of what constitutes a ‘mitigating’ or ‘aggravating’ factor. This is essential in order to maintain fairness and equity of treatment as well as public understanding of the process and so would ensure the principle of accountability.

Additionally, we support greater clarity over what behaviour would attract a 30-day suspension, and therefore a recall petition. This would improve both accountability over the imposition of sanctions and provide a clearer deterrent against these more egregious types of misconduct.

¹⁶ *ibid*

¹⁷ House of Commons Committee on Standards, *Sanctions in respect of the conduct of members* <https://publications.parliament.uk/pa/cm5801/cmselect/cmstandards/241/24102.htm>

¹⁸ *ibid*

ABOUT TRANSPARENCY INTERNATIONAL UK

Transparency International (TI) is the world's leading non-governmental anti-corruption organisation. With more than 100 chapters worldwide, TI has extensive global expertise and understanding of corruption.

Transparency International UK (TI-UK) is the UK chapter of TI. We raise awareness about corruption; advocate legal and regulatory reform at national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anticorruption expertise in the UK.

We are independent, non-political, and base our advocacy on robust research.

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