

# 立法會

## *Legislative Council*

立法會CMI/93/10-11號文件

檔 號：CB(3)/C/2

### 議員個人利益監察委員會 2011年5月20日會議的文件

### 英國就議員個人利益登記及披露 和使用議員津貼的投訴進行調查的機制

#### 引言

本文件旨在提供進一步資料，闡釋英國就議員個人利益登記及披露和使用議員津貼的投訴進行調查的機制。

#### 背景

2. 為提供參考資料，協助議員個人利益監察委員會(下稱"監察委員會")考慮改善現行議員個人利益登記及披露制度的未來路向，立法會秘書處早前曾進行資料研究，探討選定海外立法機關的議員個人利益登記和披露規定及相關安排。

3. 在2011年1月7日監察委員會會議上，委員聽取秘書處簡介上述研究的報告(立法會RP02/10-11號文件)。報告闡述英國、澳洲、加拿大、新西蘭及新加坡國會議員登記和披露個人利益的規定及相關安排，並說明如何處理涉及此類事件的投訴。委員察悉，在英國及加拿大，針對議員個人利益登記及披露的投訴由獨立人員處理，分別為國會標準事務專員(Parliamentary Commissioner for Standards)(下稱"專員")及利益衝突和操守標準事務專員(Conflict of Interest and Ethics Commissioner)。委員要求秘書處提供英國專員及加拿大國會標準事務專員工作的進一步資料。

4. 有關英國專員工作的資料載於本文，而有關加拿大利益衝突和操守標準事務專員工作的資料則另文闡述(立法會CMI/94/10-11號文件)。

## 國會標準事務專員的主要職責

5. 專員辦事處由下議院於1995年成立<sup>1</sup>。專員是下議院的獨立人員，由下議院藉決議委任，任期5年，不得連任<sup>2</sup>。下議院只需藉實體決議，便可罷免專員<sup>3</sup>。專員以兼職形式工作(每星期4天)。現任專員是John Lyon, CB。<sup>4</sup>他於2007年11月15日獲下議院委任，其職責載於《下議院會議常規》(Standing Orders of the House of Commons)(下稱"《會議常規》")(即《會議常規》第150條(附錄I))。專員負責接受及調查涉及議員被指違反《國會議員行為守則》(Code of Conduct for Members of the Parliament)(下稱"《行為守則》")(附錄II)的投訴。該《行為守則》須經下議院批准，屬非法定守則。

6. 專員亦有其他職責，包括：

- (a) 監督"議員財務利益登記冊"(Register of Members' Financial Interests)<sup>5</sup>的編製工作，以及"議員秘書及研究助理個人利益登記冊"(Register of Interests of Members' Secretaries and Research Assistants)、"新聞工作者登記冊"(Register of Journalists)及"跨黨小組登記冊"(Register of All-Party Groups)(附錄III)的編製工作；
- (b) 以保密方式向個別議員和標準及特權事宜委員會(Committee on Standards and Privileges)(下稱"委員會")提供《行為守則》及《有關議員行為守則的指引》(Guide to the Rules relating to the conduct of Members)(下稱"《指引》")在詮釋方面的意見；
- (c) 監察《行為守則》及《指引》的施行情況，並向委員會提供修訂建議；及
- (d) 擬備議員行為、禮儀及操守事宜方面的指引，並就此為議員提供訓練。

---

<sup>1</sup> 專員辦事處根據《諾蘭公務行為標準委員會第一份報告書》(First Report of Nolan Committee on Standards in Public Life)的建議於1995年成立。諾蘭公務行為標準委員會於1994年由當時的首相因應公眾關注公務行為標準而成立。

<sup>2</sup> 在2003年6月23日前，專員的任期為3年。

<sup>3</sup> Erskine May (2004)，第232頁。

<sup>4</sup> John Lyon, CB透過公開招聘獲委任為專員前是司法部部長，負責管理司法與行政之間的關係。

<sup>5</sup> "議員財務利益登記冊"的詳情載於立法會RP02/10-11號文件第2.2.1至2.2.19段及附錄I。

7. 2010年12月2日，下議院修訂《會議常規》第150條，賦權專員可在沒有接獲投訴的情況下，只要掌握足夠證據，便可調查議員是否可能違反《行為守則》<sup>6</sup>。在此之前，專員只可在接獲正式投訴後，或因應有關議員的要求(惟須在特殊情況下，並取得委員會同意)，才會展開調查。不過，根據現任專員所述，他從未"在透過投訴以外的渠道獲悉事件後展開調查"<sup>7</sup>。

8. 關於針對前任議員的投訴，或追溯至超過7年前發生的事件的事件的投訴，專員在接受投訴並展開調查前，會先徵詢委員會的意見<sup>8</sup>。

9. 專員不會考慮匿名投訴，或該等沒有證據支持至少值得進行初步調查的投訴(下文第10(b)段)。專員亦不會考慮在他看來顯然微不足道或無理纏擾的投訴、或內容大量重複過往已作調查的指稱事項。此外，如在專員看來，某宗投訴的指稱事項可能涉及刑事不當行為，專員會告知投訴人聯絡有關調查機關<sup>9</sup>。

## 投訴調查程序

### 主要階段

10. 專員調查投訴的程序主要包括以下階段<sup>10</sup>：

- (a) *初步考慮*：專員接獲投訴後，首先考慮投訴事項是否在其職權範圍內；
- (b) *初步調查*：如在專員看來，指稱事項有充分實質資料，值得至少進行初步調查，他會告知有關議員指稱事項的性質，並要求該議員回應。專員會要求該議員全面據實地交代有關事項；
- (c) *全面調查*：如在初步調查期間所得的證據相對不清晰，或指稱事項的性質特別嚴重，專員可展開全面調查。在調查過程中，專員可會見被投訴的議員、

---

<sup>6</sup> 根據公務行為標準委員會(Committee on Standards in Public Life)在2009年11月發表的第十二份報告書提出的建議而作出修訂。

<sup>7</sup> 現任專員John Lyon, CB先生於2011年4月19日的函件。

<sup>8</sup> 題為"國會標準：投訴調查程序說明"(Parliamentary Standards: Description of the Complaints Investigation Process)的《程序說明第一冊》(Procedural Note 1)第5段

<sup>9</sup> 《程序說明第一冊》第6及7段

<sup>10</sup> 《程序說明第一冊》第9至15段

投訴人及其他人士，亦可向國會當局、其他公共及私人機構、或個別人士搜集證據。

11. 專員無權強迫交出文件或強迫證人作供。被投訴的議員可告知專員他相信對考慮投訴事關重要的證據或證人姓名<sup>11</sup>。

### 更正程序

12. 在初步調查期間，如被投訴的議員已承認沒有登記或申報某項個人利益，或所涉及的個人利益輕微，又或沒有登記或申報只屬無心之失，專員可酌情容許該議員透過《會議常規》第150條所載的更正程序更正資料<sup>12</sup>。如屬沒有登記個人利益的個案，更正程序規定議員須把補交的資料載入現有登記冊，並附以適當註釋<sup>13</sup>。如屬沒有申報個人利益的個案，更正程序規定議員須透過議事規程或介入相關辯論，向下議院致歉。是否使用更正程序由專員決定。

### 調查小組

13. 為協助專員確立投訴的事實，專員可設立調查小組 (Investigatory Panel)。專員亦必須應委員會的要求設立調查小組。小組由專員出任主席，並有兩名評估員，其中一名為合資格法律人士，由專員委任，另一名為並無加入委員會的議員，由議長委任<sup>14</sup>。

14. 小組的會議閉門進行，其議事程序由專員決定。專員可委任法律顧問為小組提供協助。被投訴的議員須出席小組的研訊，亦可傳召及訊問證人。此外，小組亦可向證人發問<sup>15</sup>。

15. 在調查程序完成後，專員會擬備向委員會提交的報告，述明個案經確立的事實和專員對有否違反《行為守則》的意見。小組內由法律人士擔任的評估員須向委員會提供意見，分析委

---

<sup>11</sup> 題為“國會標準：被投訴議員的指引”(Parliamentary Standards: Guidance for Members Who are the Subject of a Complaint)的《國會事務說明第三冊》(Parliamentary Note 3)第17及18段

<sup>12</sup> 自2002年起，專員可酌情容許議員更正沒有登記或申報個人利益的輕微違規事項，而無須向標準及特權事宜委員會全面匯報。2005年，此更正程序的適用範圍擴展至涉及國會津貼和使用下議院設施及服務的個案。

<sup>13</sup> 載入登記冊的補交資料會以粗斜體列示，並附註腳。註腳載有以下一句：“根據更正程序於[日期]增補或修改資料。”註腳亦提述登記冊開端一頁，該頁載有簡略解釋更正程序的資料。更正的資料會由載入登記冊起12個月內以粗斜體列示，並載於該年刊印的登記冊內。

<sup>14</sup> 《程序說明第一冊》第21段

<sup>15</sup> 《程序說明第一冊》第22段

員會的調查程序在何等程度上符合自然公正的原則；由議員擔任的評估員則可向委員會匯報意見，述明委員會的調查程序在何等程度上顧及下議院及其議員的慣例及行事方式<sup>16</sup>。

## 被投訴議員的法律代表

16. 被投訴的議員可就投訴徵詢法律意見。專員期望議員親自回應他的提問。議員可在一名律師或顧問陪同下與專員會面<sup>17</sup>。

17. 到委員會席前應訊的議員可由一名顧問(例如律師)陪同。顧問不可代議員回答問題或向委員會發言<sup>18</sup>。

## 專員處理的投訴

18. 專員在2009-10年度接獲針對個別議員的投訴中，無須展開調查的個案有245宗，展開調查的個案有72宗，已解決的投訴有51宗<sup>19</sup>。有關專員接獲的投訴數目的進一步資料載於**附錄IV**。

19. 在接獲投訴後，專員須確保有關議員立即獲悉被投訴一事及指稱事項的性質。專員不會主動公布接獲投訴，但會回應記者查詢，如記者特別查詢與專員所接獲的投訴有關的事項，專員只會確認接獲有關投訴，但不會透露他可能展開調查的具體詳情<sup>20</sup>。

20. 根據2009-10年度的專員年報，專員向委員會提交13份備忘錄，匯報共20宗投訴個案，當中涉及19位議員。專員在年報表示："委員會同意本人在本年度就每宗個案正式匯報的調查結果，但在一些個案中，委員會偶爾對違規的嚴重程度持不同意見"。此等個案的兩個例子載於**附錄V**。

---

<sup>16</sup> 《程序說明第一冊》第23段

<sup>17</sup> 《國會事務說明第三冊》第21段

<sup>18</sup> 《國會事務說明第三冊》第30段

<sup>19</sup> 《2009-10年度國會標準事務專員年報》(Parliamentary Commissioner for Standards Annual Report 2009-10)

<sup>20</sup> 《國會事務說明第三冊》第8段

## 專員的財政預算

21. 據現任專員所述，2010-11年度的預算為606,700英鎊(7,645,000港元)，在該年度內，他有"7.5名等同全職員工，包括負責議員及其他人個人利益登記和跨黨小組登記的職員"<sup>21</sup>。過往年度的預算載於**附錄VI**。

## 標準及特權事宜委員會

### 組成及職權範圍

22. 委員會負責監督專員的工作。專員須向委員會匯報調查結果，委員會繼而向下議院提交報告。委員會有10名委員，主席由反對黨議員出任<sup>22</sup>。委員會的職權範圍載於《會議常規》第149條(**附錄VII**)。

### 委員會的運作

23. 如屬專員認為不成立的投訴或透過更正程序(上文第11段)處理的投訴，專員無須向委員會提交正式備忘錄。專員在終止處理此類投訴前會致函投訴人，解釋其調查範圍、曾考慮的證據及作出決定的原因。隨後，專員會在委員會下一個會議上匯報投訴結果。

24. 如屬須展開調查的投訴，專員會向委員會提交備忘錄。被投訴的議員可讓委員會就調查報告發表書面意見。委員會會集中就專員的結論發表意見，因為對事實的爭議應在被投訴的議員與專員先前溝通時解決，或透過調查小組的機制處理。委員會可要求專員在作出結論前搜集更多資料，或向被投訴的議員、投訴人及其他人蒐證。委員會亦可行使權力傳召任何人或傳召出示文件及紀錄<sup>23</sup>。根據委員會的一般慣例，委員會會閉門蒐證及進行商議<sup>24</sup>。

25. 委員會須向下議院提交報告，匯報調查結論(包括提出施加處分的建議)，供下議院作最終決定。該報告會涵蓋專員的備忘錄、證據，以及委員會取得的額外證據。被投訴的議員提交的資料一般會刊登於報告內，但委員會可答允刪除機密及個

<sup>21</sup> 現任國會標準事務專員John Lyon, CB先生於2011年4月19日的函件。

<sup>22</sup> Erskine May (2004)，第783頁。

<sup>23</sup> 《議會事務說明第三冊》第17段

<sup>24</sup> 《議會事務說明第三冊》第32段

人資料的要求，以保障私隱，惟前提是不可損害外界知悉委員會根據哪些證據得出調查結果的公眾利益<sup>25</sup>。

## 處分

26. 如委員會認為針對議員的投訴成立，可建議該議員向下議院公開道歉。在案情嚴重的個案中，委員會可建議下議院施加處分，有關處分包括在指定期間扣發議員薪金(但無須議員暫停職務或權利)，或在指定期間暫停議員職務或權利(並扣發薪金)。在非常特殊的情況下，委員會可建議開除議員。無論是扣發薪金、暫停議員職務或權利、或開除議員的建議，均須經下議院辯論及通過<sup>26</sup>。

## 《公務行為標準委員會第八份報告書》

27. 自1995年11月委任首位專員Gordon Downey爵士以來，專員與委員會之間的關係並非全無問題。在2001年底，下議院行政管理委員會(House of Commons Commission)宣布第二任專員Elizabeth Filkin女士為期3年的任期將會終結，並會透過公開招聘填補專員一職<sup>27</sup>。

28. Filkin女士的繼任人為Philip Mawer爵士。事實上，在1990年代後期，時事評論員發現委員會不太願意通過專員在調查中提出的所有結論，尤其是與部長及前任部長有關的調查結論。公務行為標準委員會在調查報告中批評，專員辦事處缺乏鮮明的運作獨立性及地位<sup>28</sup>。公務行為標準委員會在第八份報告中提出多項挽回外界對調查制度信心的建議，包括在下文第29至32段論述的建議。

## 成立調查小組

29. 公務行為標準委員會建議成立調查小組(上文第13至15段)，目的是為委員會設立一個"較委員會本身更適合就案情極其嚴重和具爭議性的個案進行研訊的組織，並同時確保對每位議員公平"。公務行為標準委員會提出此項建議，是因應外界對委員會委員人數<sup>29</sup>的關注，外界認為此人數會妨礙委員會在難以處理及備受爭議的個案中進行有效而公平的調查。《第八份報

<sup>25</sup> 《議會事務說明第三冊》第34段

<sup>26</sup> 《議會事務說明第三冊》第35段

<sup>27</sup> 《公務行為標準委員會第八份報告書》摘要，第1頁

<sup>28</sup> 《公務行為標準說明》：2007年11月13日題為"國會標準事務專員"的文件(編號SN/PC/04507)，該文件由下議院圖書館發出。

<sup>29</sup> 標準及特權事宜委員會當時有11名委員。

告書》載有以下一段："極為嚴重的個案往往案情複雜，涉及大量證據。委員會的委員人數眾多，不利於向證人發問。此外，並非所有委員均能出席為個別個案舉行的所有會議"<sup>30</sup>。

### 不應讓任何政黨在委員會中佔多數

30. 公務行為標準委員會指出，由於委員會的委員組合須反映下議院的政治格局，因此，實際上幾乎意味委員會將由來自多數派政府的議員控制。《第八份報告書》述明，"標準及特權事宜委員會應被視為下議院最重要的委員會之一，委員會擔當獨特和舉足輕重的角色，以維持下議院的聲譽"，"為成功擔當此角色，應清楚顯示委員會政治持平，此舉可大大提升委員會的地位"<sup>31</sup>。《第八份報告書》建議不應讓任何政黨在委員會中佔多數。

### 專員的任期

31. 公務行為標準委員會指出，固定任期對維護委員會的獨立性十分重要。首任及第三任專員"最初"獲委任3年，《第八份報告書》注意到，"正是任期不清，加速了Elizabeth Filken離任，即使這可能並非實際造成她離任的主因"<sup>32</sup>。委員會建議，專員應有固定任期，並且不得連任，下議院應決定任期為5至7年<sup>33</sup>。2003年6月23日，下議院藉決議通過延長第三任專員Philip Mawer爵士的任期至2008年8月<sup>34</sup>，此後委任的專員的任期為5年，不得連任。

### 議員應在調查中合作，有關規定應載於《行為守則》

32. 公務行為標準委員會發現，曾在少數個案中，專員須向委員會匯報議員不合作。《第八份報告書》建議，在《行為守則》內應載有明確規定，訂明議員必須在所有階段的調查中合作(載於附錄II的《行為守則》第18段)<sup>35</sup>。

---

<sup>30</sup> 《公務行為標準委員會第八份報告書》第36頁

<sup>31</sup> 《公務行為標準委員會第八份報告書》第45頁

<sup>32</sup> 《公務行為標準委員會第八份報告書》第53及54頁

<sup>33</sup> 《公務行為標準委員會第八份報告書》第54頁

<sup>34</sup> Philip Mawer爵士辭職並於2007年12月31日離任。現任專員John Lyon爵士於2008年1月1日履新。

<sup>35</sup> 《公務行為標準委員會第八份報告書》第29頁



## 專員與獨立國會標準局及合規主任的關係

33. 部分議員於2009年被指利用津貼謀私後，下議院推行了多項措施，以挽回公眾對議員的信心。其中一項是成立獨立國會標準局(Independent Parliamentary Standards Authority)<sup>36</sup>和委任合規主任(Compliance Officer)。獨立國會標準局具有行政及規管職能，包括支付議員薪金及津貼、處理津貼事務、擬訂及修訂議員津貼計劃，以及為《合規主任調查程序》(Investigation Procedure for the Compliance Officer)制訂指引<sup>37</sup>。

34. 合規主任是獨立的法定公職人員，由獨立國會標準局以公開招聘的方式甄選並委任。當獲得委任後，合規主任即與獨立國會標準局的行政職能脫鉤。合規主任直接向獨立國會標準局的董事局匯報，負責調查議員或獨立國會標準局違反開支規則的事宜。如合規主任有理由相信曾多付某項津貼，他可展開調查。他亦可主動展開調查，或應獨立國會標準局或有關議員的要求展開調查。

35. 合規主任可向專員提供與專員工作有關的資料。根據法例規定，獨立國會標準局及合規主任須發表聯合聲明，述明雙方會如何與專員、英國警察總部及其他適當人士合作。至今，獨立國會標準局及合規主任未有發出此類聯合聲明。

## 議員意見

36. 請議員察悉上述資料。

立法會秘書處  
議會事務部3  
2011年5月18日

---

<sup>36</sup> 獨立國會標準局是根據《2009年國會標準法》(Parliamentary Standards Act 2009)成立。

<sup>37</sup> 執行規定主任是根據《2010年政制改革及管治法》(Constitutional Reform and Governance Act 2010)的條文委任。

**Extract from the Standing Orders of House of Commons**

Parliamentary  
Commissioner  
for Standards.

**150.**—(1) There shall be an Officer of this House, called the Parliamentary Commissioner for Standards, who shall be appointed by the House.

(2) The principal duties of the Commissioner shall be—

- (a) to maintain the Register of Members' Financial Interests and any other registers of interest established by the House, and to make such arrangements for the compilation, maintenance and accessibility of those registers as are approved by the Committee on Standards and Privileges or an appropriate sub-committee thereof; 5  
10
- (b) to provide advice confidentially to Members and other persons or bodies subject to registration on matters relating to the registration of individual interests;
- (c) to advise the Committee on Standards and Privileges, its sub-committees and individual Members on the 15

interpretation of any code of conduct to which the House has agreed and on questions of propriety;

20 (d) to monitor the operation of such code and registers, and to make recommendations thereon to the Committee on Standards and Privileges or an appropriate sub-committee thereof; and

25 (e) to investigate, if he thinks fit, specific matters which have come to his attention relating to the conduct of Members and to report to the Committee on Standards and Privileges or to an appropriate sub-committee thereof, unless the provisions of paragraph (3) apply.

30 (2A) In determining whether to investigate a specific matter relating to the conduct of a Member the Commissioner shall have regard to whether in his view there is sufficient evidence that the Code of Conduct or the rules relating to registration or declaration of interests may have been breached to justify taking the matter further.

(3) No report shall be made by the Commissioner—

35 (a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of  
40 rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

45 (b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial

- reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable. 50
- (4) The Commissioner may at any time in the course of investigating a complaint, and if so requested by the Committee on Standards and Privileges shall, appoint an Investigatory Panel to assist him in establishing the facts relevant to the investigation. 55
- (5) An Investigatory Panel shall—
- (a) consist of the Commissioner, who shall be Chair of the Panel, and two assessors, one of whom shall be a legally qualified person appointed by the Commissioner and the other shall be a Member, who shall not be a member of the Committee on Standards and Privileges, appointed by the Speaker; and 60
- (b) meet in private.
- (6) The Commissioner—
- (a) shall determine the procedures of the Panel, subject to the provisions of this order; and 65
- (b) may appoint counsel for the purpose of assisting the Panel.
- (7) Any report that the Commissioner may have made to the Committee on Standards and Privileges in relation to the complaint before the appointment of the Panel shall be made available to the Panel by the Committee. 70
- (8) Any Member who is the subject of the complaint under investigation shall, if he so requests, be heard by the Panel; may call witnesses; and may examine other witnesses. 75

(9) When the Panel has completed its proceedings—

(a) the Commissioner shall report as in paragraph (2)(e);

80 (b) the legal assessor shall report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have been consistent with the principles of natural justice; and

85 (c) the Member assessor may report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.

(10) The Commissioner shall report each year to the House on the exercise by him of his functions.

(10A) The Commissioner shall have leave to publish from time to time—

90 (a) information and papers relating to—

(i) matters resolved in accordance with paragraph (3) of this order; and

(ii) complaints not upheld;

and

95 (b) information about complaints received and matters under investigation.

100 (11) The Commissioner may be dismissed only following a resolution of the House, moved for by a Member of the House of Commons Commission, after the Committee on Standards and Privileges has reported to the House that it is satisfied that the Commissioner is unfit to hold his office or unable to carry

out his functions; and any such report shall include a statement of the Committee's reasons for its conclusion.

# The Code of Conduct for Members of Parliament

---

*Prepared pursuant to the Resolution of the House of 19th July 1995*

## **I. Purpose of the Code**

1. The purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the House, their constituents and the public at large by:
  - a) Providing guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing
  - b) Providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those duties.

## **II. Scope of the Code**

2. The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.

## **III. Public Duties of Members**

4. By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.
5. Members have a duty to uphold the law, including the general law against discrimination, and to act on all occasions in accordance with the public trust placed in them.
6. Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.

## **IV. General Principles of Conduct**

7. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office.<sup>1</sup> These principles will be taken into consideration when any complaint is received of breaches of the provisions in other sections of the Code.
- 

<sup>1</sup> Cm 2850-I, p 14.

*“Selflessness*

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

*Integrity*

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

*Objectivity*

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

*Accountability*

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

*Openness*

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

*Honesty*

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

*Leadership*

Holders of public office should promote and support these principles by leadership and example.”

## **V. Rules of Conduct**

8. Members are expected in particular to observe the following rules and associated Resolutions of the House.

9. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

10. No Member shall act as a paid advocate in any proceeding of the House.<sup>2</sup>
11. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.<sup>3</sup>
12. In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.
13. Members must bear in mind that information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain.
14. Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.
15. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.

## **VI. Registration and Declaration of Interests**

16. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.<sup>4</sup>

## **VII. Duties in respect of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges**

17. The application of this Code shall be a matter for the House of Commons, and for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.
18. Members shall cooperate, at all stages, with any investigation into their conduct by or under the authority of the House.

---

2 Resolution of 6 November 1995.

3 Resolutions of 2 May 1695, 22 June 1858, and 15 July 1947 as amended on 6 November 1995 and 14 May 2002.

4 Resolutions of the House of 22 May 1974, 12 June 1975 as amended on 19 July 1995, 12 June 1975, 17 December 1985, 6 November 1995 as amended on 14 May 2002, and 13 July 1992.



19. No Member shall lobby a member of the Committee on Standards and Privileges in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code.

**Information extracted from the  
Parliamentary Commissioner for Standards Annual Report 2009-10**

**Register of Interests of Members' Secretaries and Research Assistants**

Those holding a parliamentary pass as a Member's secretary or research assistant are required to record on this Register, commonly called the Members' Staff Register, any other occupation or employment from which they receive income exceeding half of one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass. They also have to register any tangible gift (eg. silverware) and any other benefit (eg. hospitality, service or facilities provided) which they receive, if the value of the gift or benefit exceeds that sum and the gift arises from or relates to their work in Parliament.

**Register of Journalists Interests**

2. Those holding a pass as a Lobby journalist accredited to the parliamentary Press Gallery or for parliamentary broadcasting are required to register any occupation or employment from which they receive income exceeding one per cent of a Member's salary from the same source in the course of a calendar year, if that occupation or employment is in any way advantaged by the privileged access to Parliament afforded by their pass.

**Register of All-Party Groups**

3. The membership of All-Party Groups consists mainly of backbench Members of the House of Commons and Lords but may also include Ministers and non-parliamentarians. There are two types of group: subject groups (relating to a particular topic, eg. forestry) and country groups (relating to a particular country or region).

4. Inclusion on the Register of All-Party Groups is compulsory for any group which includes Members of the Commons from more than one party and has at least one officer who is from the Commons. Such groups are required to register the group's title and the names of its officers. Financial and material benefits received by the group as a whole must also be registered, where the group receives during a calendar year one or more benefits from the same source whose total value is £1000 or more. Lastly, the group must register details of any staff servicing the group who receive payment from sources outside Parliament for any occupation or employment that is advantaged by the privileged access to Parliament they have by virtue of holding a parliamentary pass.

## 2005-2006至2009-2010年度接獲的投訴

(摘錄自2009-2010年度國會標準事務專員年報的數字)

	2005-06	2006-07	2007-08	2008-09	2009-10
<b>沒有調查的投訴</b>	<b>106</b>	<b>95</b>	<b>155</b>	<b>160</b>	<b>245</b>
<b>接受調查的投訴</b>	<b>23</b>	<b>81</b>	<b>71</b>	<b>54</b>	<b>80*</b>
<b>已解決的投訴</b>	<b>15</b>	<b>74</b>	<b>51</b>	<b>49[6]</b>	<b>51</b>
(a) 投訴成立，透過 更正程序處理	( 0 )	( 10 )	( 7 )	( 16 )	( 14 )
(b) 投訴成立，透過 向標準及特權 事宜委員會提 交備忘錄處理	( 0 )	( 38 )	( 15 )	( 17 )	( 20 )
(c) 投訴不成立	( 15 )	( 26 )	( 29 )	( 16 )	( 17 )

(\* 當中有8宗投訴個案從上年度結轉)

## Appendix IV

### Complaints received from 2005-06 to 2009-10

(figures extracted from the Parliamentary Commissioner  
for Standards Annual Report 2009-10)

	2005-06	2006-07	2007-08	2008-09	2009-10
<b>Complaints not inquired into</b>	<b>106</b>	<b>95</b>	<b>155</b>	<b>160</b>	<b>245</b>
<b>Complaints accepted for inquiry</b>	<b>23</b>	<b>81</b>	<b>71</b>	<b>54</b>	<b>80*</b>
<b>Complaints resolved</b>	<b>15</b>	<b>74</b>	<b>51</b>	<b>49[6]</b>	<b>51</b>
(a) upheld by means of rectification procedure	( 0 )	( 10 )	( 7 )	( 16 )	( 14 )
(b) upheld by means of a memorandum to the Committee on standards and privileges	( 0 )	( 38 )	( 15 )	( 17 )	( 20 )
(c) not upheld	( 15 )	( 26 )	( 29 )	( 16 )	( 17 )

(\* eight complaints were carried forward from previous year)

### Example 1

(extracted from the Parliamentary Commissioner  
for Standards Annual Report 2009-10)

3.22 The rules on the Additional Costs Allowance had since June 2003 prescribed that: *“The location of your main home will normally be a matter of fact. If you have more than one home, your main home will normally be the one where you spend more nights than any other.”* Since April 2004 this rule had applied to all Members, including Ministers.<sup>29</sup> Members were permitted to claim for the costs of their designated second home, but not for their main home. The first inquiry on which I reported to the Committee followed an article in a Sunday newspaper alleging that a Member, who was then a Government Minister, had wrongly claimed against the allowances for the costs of her designated second home in her constituency where her partner and children lived, while nominating as her main home a London property shared with her sister.<sup>30</sup> The complainant, who was one of the Member’s London neighbours, supplemented the newspaper article with eyewitness evidence about the pattern of the Member’s overnight stays in her designated main home.

3.23 In the course of my investigation the Member made available information from her Ministerial and official diaries about her pattern of overnight stays. This was supplemented by information which, with her agreement, I had requested from the police who had provided her with protection for part of the relevant period. This evidence demonstrated that while until May 2007 the Member had spent more nights in London than in her constituency, the pattern had changed at that point, and since June 2007 she had spent more nights in her designated second home in her constituency than in her main home in London. This meant that until May 2007 she satisfied the objective test based on those stays. But after then she did not. The rules, however, allow for exceptions to the objective

---

<sup>28</sup> I submitted a Report to the Committee on one of these.

<sup>29</sup> Before April 2004, Ministers and office-holders were automatically deemed to have their main homes in London. If they wished to draw on this allowance, therefore, their claims had to relate to overnight stays in their constituency.

<sup>30</sup> Ninth Report of Session 2008-09, HC 974

test. The issue I had to consider was whether in this case the objective test should be set aside by the other considerations. I concluded that the nature and use of the two properties, and the balance of nights the Member spent in each, meant that the Member's designation of her main home from April 2004 to March 2009 was not in accordance with the rules of the House. I also found that the Member was in breach of the rules in not notifying the House authorities when the address of her main home changed in 2008.

3.24 I also accepted a separate complaint that this Member had claimed against her Additional Costs Allowance for entertainment items, namely films. I found that she had subscribed to a media package which included cable television, telephone and broadband services for her designated second home. The rules of the House allowed reimbursement for such services, but not for entertainment items, which she had also included in the five separate claims which she made. When these additional claims were brought to the Member's attention she readily accepted that she should not have claimed for entertainment items and reimbursed the House for the costs of her entire media package during this period. I decided that these claims were in breach of the rules of the House and I therefore upheld the complaint.

3.25 The Committee agreed with my conclusions on both these complaints. They noted however that the Member had sought and obtained advice about the designation of her homes in 2007, which they regarded as significant mitigation, that she gained nothing from this lapse and that the public interest was not harmed. They recommended that the Member apologise to the House by way of a personal statement for wrongly designating her main home. The Committee recommended no further action in relation to her media package, as she had already apologised and repaid a sum in excess of what she had wrongly claimed.

---

<sup>31</sup> Eleventh Report of Session 2008-09, HC 1101

<sup>32</sup> The Guide to the rules relating to the conduct of Members, February 2009, HC 735 paragraph 104.

## Example 2

(extracted from the Parliamentary Commissioner  
for Standards Annual Report 2009-10)

3.36 My fifth memorandum about the designation of Members' homes concerned two Members who are married to each other.<sup>35</sup> The complainant alleged that the Members had not lived in their designated main home for a year or more, and suggested that their designated second home, in central London, on which they claimed parliamentary allowances, had in effect become their main home. The rules of the House had changed during the period under investigation. Until March 2009 a Member's main home was normally where they spent more nights than in any other place. From April 2009 the designation of a main home was left to each Member "*based on his or her circumstances*".

---

<sup>35</sup> Seventh Report of Session 2009-10, HC 310

<sup>36</sup> Tenth Report of Session 2009-10, HC 453

3.37 Upon investigation I found that the Members had started to refurbish their main home in May 2008 in the expectation of returning in December of that year. However, they experienced problems with the work in the later part of the year. In the event, they were not able to move back until October 2009. I considered it fair to allow a reasonable period for adjusting to the building problem. But I concluded that the Members were in breach of the rules in continuing to make claims against parliamentary allowances for their designated second home in central London from June 2009 to October 2009. In my view, the rules of the House require that a Member's home must be somewhere where they can stay overnight. I also considered that they received a personal financial benefit from those claims from December 2008 to October 2009. This was because they had stayed overnight in the flat for four additional nights a week when Parliament was sitting and six additional nights a week in the recess. I therefore upheld the complaint, which in my view involved a serious breach of the rules involving significant public funds.

3.38 The Committee agreed with my findings. But they noted that the Department of Resources had twice given express approval to the Members' arrangements, which they regarded as a mitigating factor. They also noted the lack of any evidence that the Members intended to procure for themselves a personal benefit, and the very difficult circumstances which were beyond the Members' control. They considered that it would not be fair to ask for repayment in full, and recommended that the Members repay a total of £1,500.

---

<sup>37</sup> Tenth Report of Session 2008-09, HC 1070



## 附錄VI

### 國會標準事務專員辦事處的營運成本

(摘錄自《2009-2010年度國會標準事務專員年報》的數字)

	2004-05 (英鎊)	2005-06 (英鎊)	2006-07 (英鎊)	2007-08 (英鎊)	2008-09 (英鎊)	2009-10 (英鎊)
職員開支	298,869	308,121	379,609	419,816	494,005	578,300
其他營運成本	3,964	8,713	6,939	5,881	5,850	10,256
<b>總計</b>	<b>302,833</b>	<b>316,834</b>	<b>386,548</b>	<b>425,697</b>	<b>499,855</b>	<b>588,556</b>

## Appendix VI

### **Costs of running of the Office of the Parliamentary Commissioner for Standards**

(figures extracted from the Parliamentary Commissioner  
for Standards Annual Report 2009-10)

	2004-05 (£)	2005-06 (£)	2006-07 (£)	2007-08 (£)	2008-09 (£)	2009-10 (£)
Staffing expenditure	298,869	308,121	379,609	419,816	494,005	578,300
Other running costs	3,964	8,713	6,939	5,881	5,850	10,256
<b>Total</b>	<b>302,833</b>	<b>316,834</b>	<b>386,548</b>	<b>425,697</b>	<b>499,855</b>	<b>588,556</b>

Extract from the Standing Orders of House of Commons

152

STANDING ORDERS

Committee on  
Standards and  
Privileges.

149.—(1) There shall be a select committee, called the Committee on Standards and Privileges—

(a) to consider specific matters relating to privileges referred to it by the House;

(b) 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

5

10

15 (c) 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  
20 recommend any modifications to such code of conduct  
as may from time to time appear to be necessary.

(2) The committee shall consist of ten Members, of whom  
five shall be a quorum.

25 (3) Unless the House otherwise orders, each Member  
nominated to the committee shall continue to be a member of  
it for the remainder of the Parliament.

30 (4) The committee shall have power to appoint  
sub-committees consisting of no more than seven Members, of  
whom three shall be a quorum, and to refer to such  
sub-committees any of the matters referred to the committee.

35 (5) The committee and any sub-committee shall have power  
to send for persons, papers and records, to sit notwithstanding  
any adjournment of the House, to adjourn from place to place,  
to report from time to time, to appoint legal advisers, and to  
appoint specialist advisers either to supply information which  
is not readily available or to elucidate matters of complexity  
within the committee's order of reference.

40 (6) The committee shall have power to order the attendance  
of any Member before the committee or any sub-committee  
and to require that specific documents or records in the  
possession of a Member relating to its inquiries, or to the  
inquiries of a sub-committee or of the Commissioner, be laid  
before the committee or any sub-committee.

45 (7) The committee, or any sub-committee, shall have power  
to refer to unreported evidence of former Committees of

Privileges or of former Select Committees on Members' Interests and to any documents circulated to any such committee.

(8) The committee shall have power to refuse to allow proceedings to which the public are admitted to be broadcast. 50

(9) Mr Attorney General, the Advocate General and Mr Solicitor General, being Members of the House, may attend the committee or any sub-committee, may take part in deliberations, may receive committee or sub-committee papers and may give such other assistance to the committee or sub-committee as may be appropriate, but shall not vote or make any motion or move any amendment or be counted in the quorum. 55