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Paper for Committee on Members' Interests meeting on 20 May 2011

Mechanism for investigating complaints relating to registration and disclosure of Members' interests and use of Members' allowances in the United Kingdom

Purpose

This paper provides further information on the mechanism in the United Kingdom ("UK") for investigating complaints in relation to the registration and disclosure of Members' interests and use of Members' allowances.

Background

2. To provide reference for the Committee on Members' Interests ("CMI") in considering the way forward in improving the current system on registration and disclosure of interest by Members, the Legislative Council Secretariat earlier conducted a research study on the requirements and related arrangements for the registration and disclosure of Members' interests in selected overseas legislatures.

3. At the CMI meeting on 7 January 2011, members were briefed on the research report on the requirements and related arrangements for the registration and disclosure of interests of Members of Parliaments in UK, Australia, Canada, New Zealand and Singapore and how complaints on such matters are dealt with (RP2/10-11). Members noted that in UK and Canada, complaints against the registration and disclosure of Members' interests are handled by an independent officer, i.e. the Parliamentary Commissioner for Standards ("the Commissioner") and the Conflict of Interest and Ethics Commissioner ("CIEC") respectively.

Members requested the Secretariat to provide further information about the work of UK's Commissioner and Canada's CIEC.

4. Information about the work of UK's Commissioner is set out in this paper while that of Canada's CIEC is set out in a separate paper (LC Paper No. CMI 94/10-11).

Key responsibilities of the Parliamentary Commissioner for Standards

5. The office of the Commissioner was set up by the House of Commons in 1995¹. The Commissioner is an independent officer of the House. He is appointed by a resolution of the House for a five-year non-renewable term² and can be removed from office only by a substantive resolution of the House³. The Commissioner works on a part-time basis (four days a week). The current Commissioner is Mr John Lyon, CB.⁴ He was appointed by the Commons on 15 November 2007. The Commissioner's responsibilities are set out in the Standing Orders ("SO"), i.e. SO 150 (**Appendix I**), of the House. The Commissioner is responsible for receiving and investigating complaints about Members who are allegedly in breach of the Code of Conduct for Members of the Parliament ("Code of Conduct") (**Appendix II**), which is a non-statutory code approved by the House.

6. The Commissioner also has other responsibilities, including:

- (a) overseeing the compilation the Register of Members' Financial Interests⁵, as well as the Register of Interests of Members' Secretaries and Research Assistants, the Register of Journalists Interests and the Register of All-Party Groups (**Appendix III**);

¹ The office of the Commissioner was created in 1995 on the recommendation of the first (Nolan) Committee on Standards in Public Life. The Committee was set up in October 1994 by the then Prime Minister in response to public concern about standards in public life.

² Prior to 23 June 2003, the Commissioner was appointed for a term of three years.

³ Erskine May (2004), page 232

⁴ Immediately prior to his appointment as the Commissioner through open recruitment, Mr John Lyon, CB, was a Director General of the Ministry of Justice responsible for the management of relations between the judiciary and the executive.

⁵ Details of the Register of Members' Financial Interests are set out in paragraphs 2.2.1 to 2.2.19 and Appendix I of RP 02/10-11.

- (b) providing advice on a confidential basis to individual Members and to the Committee on Standards and Privileges (“the Committee”) about the interpretation of the Code of Conduct and Guide to the Rules Relating to the Conduct of Members (“the Guide”);
- (c) monitoring the operation of the Code of Conduct and the Guide and proposing modifications to the Committee; and
- (d) preparing guidance and providing training for Members on matters of conduct, propriety and ethics.

7. On 2 December 2010, SO 150 was amended to empower the Commissioner, upon having sufficient evidence, to initiate an investigation into whether a Member may have breached the Code of Conduct without receiving a complaint.⁶ Before that, the Commissioner may investigate a matter only after receiving a formal complaint or, in exceptional circumstances and with the agreement of the Committee, at the request of the Member concerned. According to the incumbent Commissioner, however, he has not yet “had cause to initiate an investigation following a matter being brought to my attention other than through a complaint”⁷.

8. In respect of complaints against a former Member or one that goes back more than seven years, the Commissioner consults the Committee before he accepts such complaints for investigation⁸.

9. The Commissioner does not consider anonymous complaints or those which are not supported by evidence sufficient to suggest that they merit at least a preliminary inquiry (paragraph 10(b) below). The Commissioner also does not consider complaints which appear to him to be clearly trivial or vexatious or which substantially repeat allegations which have already been the subject of inquiry. Further, the Commissioner will advise the complainant to approach the relevant

⁶ The change was made on the recommendation of the Committee on Public Life in its Twelfth Report published in November 2009.

⁷ Letter dated 19 April 2011 from Mr John Lyon, CB, the incumbent Commissioner.

⁸ Paragraph 5 of Procedural Note 1 entitled Parliamentary Standards: Description of the Complaints Investigation Process (“Procedural Note 1”)

investigatory agency if it appears to him that a complaint may involve an allegation of criminal misconduct.⁹

Complaints investigation process

Main stages

10. The complaints investigation process of the Commissioner mainly comprises the following stages¹⁰:

- (a) *initial consideration*: on receiving a complaint, the Commissioner first considers whether it falls within his remit;
- (b) *preliminary inquiry*: where it appears that an allegation has sufficient substance to warrant at least a preliminary inquiry, the Commissioner will inform the Member concerned of the nature of the allegation and seek a response. What is asked of the Member is a full and truthful account of the matters in question;
- (c) *full investigation*: if the balance of the evidence obtained during the preliminary inquiry is unclear or the nature of the allegation is particularly serious, the Commissioner may conduct a full investigation. In the course of the investigation, the Commissioner may interview the Member under complaint, the complainant and other persons, and also seek evidence from parliamentary authorities, other public and private bodies or from private individuals.

11. The Commissioner has no power to compel the production of documents or witnesses. The Member under complaint may draw to the attention evidence or the names of witnesses which he or she believes to be material to the consideration of a complaint.¹¹

⁹ Paragraphs 6 and 7 of Procedural Note 1

¹⁰ Paragraphs 9 to 15 of Procedural Note 1

¹¹ Paragraphs 17 and 18 of Parliamentary Note 3 entitled Parliamentary Standards: Guidance for Members Who Are The Subject of a Complaint (“Parliamentary Note 3”)

Rectification procedure

12. If during the preliminary enquiry, the Member under complaint already admits to failing to register or declare an interest or where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has the discretion to allow the Member to rectify the matter using the rectification procedure provided in SO 150¹². In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note¹³. In the case of non-declaration, rectification requires an apology to the House, either by means of a point of order or of an intervention in a relevant debate. The use of the rectification procedure is a matter for the Commissioner.

Investigatory Panel

13. To assist the Commissioner in establishing the facts of a complaint, he may, and if requested by the Committee must, set up an Investigatory Panel. The Panel consists of the Commissioner, as the Chairman, and two assessors, one of them legally qualified appointed by the Commissioner and the other a Member, who is not a member of the Committee, appointed by the Speaker.¹⁴

14. The Panel meets in private and its procedures are determined by the Commissioner. The Commissioner may appoint Counsel to assist the Panel. The Member under complaint shall be heard by the Panel and the Member may call and examine witnesses. The Panel may also question witnesses.¹⁵

15. Upon completion of its proceedings, the Commissioner prepares

¹² Since 2002, the Commissioner has had discretion to allow Members to correct minor failures to register or declare interests without him having to report fully to the Committee on Standards and Privileges. In 2005, the rectification procedure was extended to cases involving parliamentary allowances and the use of facilities and services of the House.

¹³ A late entry in the Register will be printed in bold italics and asterisked to a footnote. The footnote will read: "*entry added or amended in [inset date], under the rectification procedure.*" The footnote will be cross-referred to the page at the beginning of the Register where the rectification procedure will be briefly explained. The corrected entry will remain in bold italics for 12 months from its first appearing and will also appear in one annual printed Register.

¹⁴ Paragraphs 21 of Procedural Note 1

¹⁵ Paragraphs 22 of Procedural Note 1

a report to the Committee which sets out the facts of the case as established and expressing an opinion on whether the Code of Conduct has been breached. The legal assessor to the Panel is required to give the Committee his opinion as to the extent to which its proceedings have been consistent of the principle of natural justice and the Member assessor may report to the Committee his opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.¹⁶

Legal representation for Members under complaint

16. Members under complaint may take legal advice on a complaint. The Commissioner expects the Member to respond to his enquiries for themselves. Members may be accompanied by a lawyer or an adviser at meetings with the Commissioner.¹⁷

17. A Member appearing before the Committee may be accompanied by an adviser such as a solicitor. The advisor may not answer questions on behalf of the Member or address the Committee.¹⁸

Complaints dealt with by the Commissioner

18. Of the complaints against individual Members received by the Commissioner in 2009-10, 245 complaints were not inquired into, 72 complaints were subject of inquiry and the number of complaints resolved was 51¹⁹. Further information about the number of complaints received by the Commissioner is in **Appendix IV**.

19. On the receipt of a complaint, the Commissioner will ensure that the Member concerned is immediately informed of this and of the nature of the allegations. The Commissioner will not take the initiative to announce that he has received a complaint but will respond to press inquiries and in the case of press inquiry that relates specifically to a

¹⁶ Paragraphs 23 of Procedural Note 1

¹⁷ Paragraph 21 of Parliamentary Note 3

¹⁸ Paragraph 30 of Parliamentary Note 3

¹⁹ Parliamentary Commissioner for Standards Annual Report 2009-10

complaint that has been received, to confirm its receipt. The Commissioner will not reveal the specific details of the inquiries he may be making.²⁰

20. According to the Commissioner's Annual Report 2009-10, the Commissioner submitted to the Committee 13 memoranda on a total of 20 complaints about 19 Members, and that the Committee "agreed with my findings in each case which I reported formally to them this year, although on occasions they took a different view of the seriousness of the breach". Two examples of such occasions are given in **Appendix V**.

Budget of the Commissioner

21. According to the incumbent Commissioner, the budget for 2010-11 was £606,700 or about HK\$7,645,000, and during that year he had a "full-time equivalent staff of 7.5, which included staff working on the registration of Members' and others' interests and on the registration of all-party groups"²¹. Further information about his past budgets is in **Appendix VI**.

Committee on Standards and Privileges

Composition and terms of reference

22. The Committee oversees the work of the Commissioner. The Commissioner reports his findings of his investigations to the Committee, which in turn reports to the House. The Committee has 10 members and it is always chaired by a Member of the opposition²². The terms of reference of the Committee are set out in SO 149 (**Appendix VII**).

Operation of the Committee

23. In cases where the Commissioner does not uphold a complaint or where he makes use of the rectification procedure (paragraph 11

²⁰ Paragraph 8 of Parliamentary Note 3

²¹ Letter dated 19 April 2011 from Mr John Lyon CB, the incumbent Parliamentary Commissioner for Standards.

²² Erskine May (2004), page 783

above), he does not submit a formal memorandum to the Committee. The Commissioner closes the complaint by writing to the complainant, explaining the scope of his inquiry, the evidence that he has considered and the reasons for his decisions. The Commissioner then informs the Committee of this outcome at the following meeting of the Committee.

24. In cases where an investigation into a complaint is conducted, the Commissioner will submit a memorandum to the Committee. The Member under complaint may let the Committee have any written comments on the report. The Committee expects that such comments will focus on the Commissioner's conclusions as disputes about facts should have been addressed in earlier exchanges between the Member and the Commissioner or through the mechanism of an Investigatory Panel. The Committee may ask the Commissioner to obtain further information or take evidence from the Member under complaint, the complainant and other persons before reaching its conclusions. The Committee may exercise its power to summon persons, papers and records²³. It is the normal practice of the Committee to take evidence in private and it always deliberates in private²⁴.

25. The Committee reports its conclusions, including any recommendations on penalties, to the House which makes the final decision. The report includes the Commissioner's memorandum and supporting evidence and additional any evidence obtained by the Committee. Any material submitted by the Member under complaint is normally published but the Committee is sympathetic to requests for deletion of confidential information and personal where it can protect privacy without jeopardising the public interest in seeking the evidence on which the Committee has based its findings.²⁵

Sanctions

26. If the Committee finds the complaint against a Member upheld, it may recommend that the Member make a public apology to the House. In more serious cases, it may recommend to the House that a penalty be imposed, which may involve either withholding a Member's salary for a

²³ Paragraph 17 of Parliamentary Note 3

²⁴ Paragraph 32 of Parliamentary Note 3

²⁵ Paragraph 34 of Parliamentary Note 3

specified period without suspending the Member or the suspension of the Member (with a loss of salary) for a specific period. In the most exceptional cases, the Committee could recommend the expulsion of the Member. A recommendation that the Member should have his or her salary withheld, or the Member be suspended or expelled must be debated and approved by the House.²⁶

Eighth report of the Committee on Standards of Public Life

27. Since the appointment of the first Commissioner, Sir Gordon Downey, in November 1995, the relationship between the Commissioner and the Committee and Members had not been without problems. Towards the end of 2001, the House of Commons Commission announced that the three year appointment of the second Commissioner, Ms Elizabeth Filkin, would cease and there would be an open competition to fill the post²⁷.

28. Ms Filkin was succeeded by Sir Philip Mawer. In fact, by late 1990s, commentators noted that the Committee was less willing to endorse all the findings of the Commissioner's investigations, particularly in relation to ministers and former ministers. The ambiguous nature of the office in terms of its operational independence and status were criticized by an enquiry by the Committee on Standards in Public Life ("CSPL")²⁸. CSPL made a number of recommendations to restore confidence in the system in its Eighth Report, including those discussed in paragraphs 29 to 32 below.

Setting up of an Investigatory Panel

29. CSPL recommended the setting up of an Investigatory Panel (paragraphs 13 to 15 above) to provide the Committee with a "body better suited than itself to conduct hearings on the most serious and contested cases while ensuring fairness to the individual Member". The recommendation was made in response to concern about the size²⁹ of the

²⁶ Paragraph 35 of Parliamentary Note 3

²⁷ Summary of Eighth Report of Committee on Standards in Public Life, page 1

²⁸ Standard Note: SN/PC/04507 dated 13 November 2007 issued by the Library of the House of Commons entitled "Parliamentary Commissioner for Standards".

²⁹ The size of the Committee on Standards and Privileges at that time was 11 members.

Committee being an impediment to an effective and fair process in difficult and contested cases. The Eighth Report stated that “[T]he most serious cases are complex and involve a high volume of evidence. A large Committee does not lend itself well to the process of questioning witnesses. Moreover, not all members may be able to attend all meetings concerning a particular case”³⁰.

No party should hold an overall majority membership of the Committee

30. CSPL pointed out that as the Committee reflected the political balance in the House, in practice this meant that there would almost always be a Government majority. The Eighth Report stated that “the Committee on Standards and Privileges should be seen as one of the most important committees of the House, fulfilling a unique and highly valuable role in sustaining the reputation of the House” and that “to do so successfully, its position would be greatly strengthened by making clear the politically impartial nature of the Committee”³¹. The Eighth Report recommended that no party should hold an overall majority membership of the Committee.

Tenure of the Commissioner

31. CSPL pointed out that a set period of tenure was important in buttressing independence. Both the first and third Commissioners were appointed for a term of three years “initially” and its Eighth Report noted that “it was precisely the lack of clarity over this which exacerbated, if it did not actually create, the difficulties over Elizabeth Filken’s departure”³². The Committee recommended that the Commissioner should be appointed for a non-renewable fixed term and the House should decide on a term of five to seven years³³. On 23 June 2003, the House approved by resolution the lengthening of the term of office of the third Commissioner, Sir Philip Mawer, to June 2008³⁴, with future appointments to be made on a five year non-renewable basis.

³⁰ Page 36 of the Eighth Report of the Committee on Standards in Public Life

³¹ Pages 45 and 46 of the Eighth Report of the Committee on Standards in Public Life

³² Page 53 and 54 of the Eighth Report of the Committee on Standards in Public Life

³³ Page 54 of the Eighth Report of the Committee on Standards in Public Life

³⁴ Sir Philip Mawer resigned and left the post on 31 December 2007. The incumbent Commissioner, Sir John Lyon, took up the post on 1 January 2008.

Members should cooperate with any investigation and the requirement should be stated in the Code of Conduct

32. CSPL noted that there had been a small number of cases where the Commissioner had needed to report to the Committee a lack of co-operation from the Member under complaint. The Eighth Report recommended that there should be an explicit requirement in the Code of Conduct that Members must co-operate with any investigation, at all stages (paragraph 18 of the Code of Conduct in Appendix II)³⁵.

The Commissioner's relationship with the Independent Parliamentary Standards Authority and the Compliance Officer

33. Following allegations that some Members had used the allowance system for their own benefit in 2009, measures were undertaken to restore public confidence in Members. One of the measures was the establishment of the Independent Parliamentary Standards Authority ("IPSA")³⁶ and the appointment of a Compliance Officer. IPSA has both administrative and regulatory functions, including paying Members' salaries and allowances, dealing with allowances, preparing and revising an allowance scheme for Members and drawing guidance on the Investigations Procedure for the Compliance Officer³⁷.

34. The Compliance Officer is an independent statutory office holder. He is selected and appointed by IPSA on the basis of open competition and once appointed the Compliance Officer has no link to the executive functions of IPSA. He reports directly to the Board of IPSA. The Compliance Officer investigates complaints about breaches of the expenses rules by Members or IPSA. The Compliance Officer may conduct an investigation if he has reason to believe that an allowance has been overpaid. He may also conduct an investigation on his own initiative, at the request of IPSA or the Member concerned.

³⁵ Page 29 of the Eighth Report of the Committee on Standards in Public Life

³⁶ IPSA was set up under the Parliamentary Standards Act 2009.

³⁷ The Compliance Officer was appointed under provisions of the Constitutional Reform and Governance Act 2010.

35. The Compliance Officer may provide information to the Commissioner if relevant to the work of the Commissioner³⁸. IPSA and the Compliance Officer is required by law to issue a joint statement setting out how they will work with the Commissioner, the Metropolitan Police and other appropriate person. IPSA and the Compliance Officer have yet to issue their joint statement.

Members' advice

36. Members are invited to note the above information.

Council Business Division 3
Legislative Council Secretariat
18 May 2011

³⁸ According to the letter dated 19 April 2011 from Mr John Lyon, CB, the incumbent Commissioner, the Compliance Officer “has yet to refer a matter to me”.

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
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- (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
- (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.

(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
100 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.¹ These principles will be taken into consideration when any complaint is received of breaches of the provisions in other sections of the Code.
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¹ 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.²
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.³
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.⁴

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
沒有調查的投訴	106	95	155	160	245
接受調查的投訴	23	81	71	54	80*
已解決的投訴	15	74	51	49[6]	51
(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
Complaints not inquired into	106	95	155	160	245
Complaints accepted for inquiry	23	81	71	54	80*
Complaints resolved	15	74	51	49[6]	51
(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.²⁹ 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.³⁰ 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

²⁸ I submitted a Report to the Committee on one of these.

²⁹ 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.

³⁰ 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.

³¹ Eleventh Report of Session 2008-09, HC 1101

³² 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.³⁵ 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*".

³⁵ Seventh Report of Session 2009-10, HC 310

³⁶ 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.

³⁷ 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
總計	302,833	316,834	386,548	425,697	499,855	588,556

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
Total	302,833	316,834	386,548	425,697	499,855	588,556

Extract from the Standing Orders of House of Commons

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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

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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