

Committee on Standards

Oral evidence: The Code of Conduct and Guide to the Rules, HC 848

Tuesday 29 November 2016

Ordered by the House of Commons to be published on 29 November 2016.

Watch the meeting

Members present: Sir Kevin Barron (Chair); Sir Paul Beresford; Mrs Jane Burgess (Lay Member); Miss Charmaine Burton (Lay Member); Mrs Sharon Darcy (Lay Member); Mr Dominic Grieve; Mr Peter Jinman (Lay Member); Susan Elan Jones; Dr Arun Midha (Lay Member); Mr Walter Rader (Lay Member); Sir Peter Rubin (Lay Member); Tommy Sheppard.

Questions 1-43

Witnesses

[I](#): Mr Graham Brady MP, Chair of the 1922 Committee, Ruth Smeeth MP, Deputy Chair of the Parliamentary Labour Party, and Rt Hon Angus Robertson MP, Deputy Leader of the SNP.

[II](#): Mr Bernard Jenkin MP, Chair of the Public Administration and Constitutional Affairs Committee, Dr Sarah Wollaston MP, Chair of the Health Committee, and John Mann MP.

Written evidence from witnesses:

– [Add names of witnesses and hyperlink to submissions]

Examination of witnesses

Witnesses: Mr Graham Brady MP, Ruth Smeeth MP and Angus Robertson MP.

Chair: Good morning. Welcome to the Committee on Standards; this is the third evidence session in our review of the code of conduct. For the record, may I ask each of you to introduce yourself and tell us your position?

Angus Robertson: I am Angus Robertson, the Westminster leader of the Scottish National party.

Ruth Smeeth: I am Ruth Smeeth. I was recently appointed as the deputy of the Parliamentary Labour party.

Mr Brady: I am Graham Brady, the Member of Parliament for Altrincham and Sale West and chairman of the 1922 Committee.

Q1 **Chair:** Thanks very much for coming along. The Commissioner for Ethical Standards in Public Life in Scotland, in his response to the first consultation, argued that, "If the Code does not inspire the confidence of MPs, it is unlikely to be regarded as worth observing. If it fails to inspire the confidence of the electorate, then even its close observance would be pointless." Does the code as currently drafted inspire the confidence of MPs and what do you see as its chief purpose? I do not know who would like to start—Graham, could I tempt you?

Mr Brady: In very broad terms, nearly all of us probably accept that there has been a huge amount of progress in recent decades, stemming from the principles. It is very important that we have clear principles and an expectation of transparency and openness. Those two things together take us a very long way. I think the code can be helpful, but it can also cause some difficulties. The difficulty, essentially, is that as soon as you start to define things, you provide room for challenge and unintended consequences. That is perhaps even greater when you start to revise codes. We were chatting outside the room and agreed that most Members of Parliament probably either never read the whole documentation, because they get it on their first day in Parliament and they are very busy, or they read it in a piecemeal fashion when it seems to be important. I suspect that as Members see recurrent revisions of the code, they start to become less interested in it and less able to follow the detail of it.

Ruth Smeeth: I would agree with the majority of what was just said. In addition, I was only elected last year, and on my first day I was given literally a foot and a half of paperwork. The idea that anyone was going to read the code in detail—there is obviously an onus on Members of Parliament, but also on the Parliamentary Commissioner to work with colleagues later on and our senior staff, because they will be the ones who help us ensure we are compliant. That should not be done in the first week. My first week was an extraordinary experience, but it was



HOUSE OF COMMONS

somewhat overwhelming and I can remember about three things that I was told.

Doing it a few months in—before summer recess in a normal parliamentary cycle—would be wise, but there should also be regular training for senior staff so that they can keep us on the straight and narrow, especially for some of the detail in the code in terms of donations, how we interact and what we can and can't do. To be candid, for many of us it may be our staff who agree things for us thinking they are being compliant, and they will not know until we have seen it. The onus is still on us, but they need to know what they are doing as well as we do.

In terms of the main premise of the code—of course we need a code, but I think it needs to be simple, transparent and straightforward, and it needs to leave no room for confusion. There are some areas where the current code does.

Angus Robertson: Rather than repeating what colleagues have said, I will start off by saying that I do not think there is anyone in any mainstream political party who believes that we should not have a code of conduct. The days of the gentlemen's club, where we do not even need to shake hands because, "We are all honourable gentlemen, aren't we?" is good enough—that was the approach of the 19th century. In this century, I don't think we could get by without a code of conduct that makes it absolutely clear what it is that we are supposed to do and what we are not supposed to do. We then get into the challenging territory of the unintended consequence, and no doubt you are going to ask some questions about that, but on the basic point of having a code of practice, yes, it is absolutely essential.

There have been enough examples of abuses right across public life that we need to ensure that the public can have confidence that those of us who have the good fortune to work on their behalf do it to the highest standards. It is something that needs to be at the forefront of our minds. The challenge is how we make that work. I endorse what Ruth said about the difficulty for new Members who arrive and get a doorstep of "Must do this" and "Mustn't do that". It is very, very complicated.

A number of us have had the good fortune to meet the Commissioner for Standards to talk about how things work. Maybe we are going to come on to that, but I think we can be reassured, and the public can be reassured that the number of cases of serious, egregious breaches of the code is small. It proves that the majority of people working on their behalf in public life in Parliaments across the UK work to the highest of standards. That should be reassuring to the public, and surely that is the intention of having such a code in the first place.

Q2 **Dr Midha:** The code seeks to take each of the Nolan principles and provide examples of suitable behaviour that an MP should follow. Do you think that is a good approach, or should the code leave MPs and the public to look at the Nolan principles and then interpret them as they will?



HOUSE OF COMMONS

Angus Robertson: Dr Midha, you are looking at me when asking the question, so if you do not mind, I will give a quick reply. Given that we have these principles enshrined right across the public sector, it would be extraordinary if they did not apply to parliamentarians, would it not? The next question is on the degree to which and in which way those principles should be updated. That will be the hospital pass to my colleagues on the panel. I have to say that I have looked at the wording, and I do not find anything particularly problematic with it. Mr Chairman, are we going to have an opportunity to speak about the preamble to the code before moving at some stage to the principles? There is an issue that I would want to flag that is of seriousness to more than half the political parties in the House.

Chair: If that is not covered, I will invite you to do that at the end of the session.

Q3 **Dr Midha:** Perhaps I was being too complex in my question. I merely wanted to elicit from you whether the provision of examples of behaviour to reflect a particular Nolan principle would assist an MP in determining whether they are fulfilling a Nolan principle or not. It is that use of the methodology of an example of a behaviour.

Angus Robertson: I have read them and I don't have any problem with the proposals that have been made.

Mr Brady: Examples can be useful, but we need to remember that it is the principles that are the core of it. A huge amount of this is really about common sense. It is perhaps about something even bigger and more important. My biggest concern is that the more detailed and prescriptive one seeks to be, the greater the danger that you move away from a general expectation that the Member should behave with integrity and to remember that is their core duty.

Ruth Smeeth: I agree with everything that Graham just said. The examples are fine but can be a distraction. It is very clear that we all have a position of leadership and authority and if we cannot understand the base principles and apply those to being Members of Parliament, something is quite wrong. The examples are great, but they should not be prescriptive or definitive; actually, we should all be able to interpret the general principles.

Q4 **Miss Burton:** Before I ask one question, I wanted to go back, Ruth, to something that you said around the training of senior staff when you first came in and all the rest of it. Would you say that MPs could do with some workshops and training for themselves and not just depend on senior staff?

Ruth Smeeth: I did not mean one as opposed to the other. In terms of all our responsibilities when we get elected, every part of the parliamentary estate chooses to engage with MPs differently, which is not necessarily the most helpful way of doing it in itself, but it is also very much directed at Members of Parliament. We don't have staff at all for weeks and weeks potentially. I didn't have a physical office for two months. Sorry, I had one



HOUSE OF COMMONS

within a month, but for a lot of colleagues it was two months before they had a physical base.

When you are given a volume of paperwork and are a wandering Member of Parliament around the building, it is a huge challenge. Absolutely, give us training and information at the beginning, and I think train us again, or ask to meet with us before we break for summer recess in July, once we have been here for a little while, but it is also recognising that on a day-to-day basis, some of the principles will actually be relevant to our senior staff. Our senior staff don't necessarily stay with us forever, as much as I would want mine to, so that training has to be ongoing every quarter, even if it is only for a handful of people every quarter, to make sure that everybody understands their full responsibilities under the code. It is not one or the other; I think it is both. Most of us operate as teams with our staff, not as individuals.

Q5 Miss Burton: Thank you. Do you have any concerns about the interpretation of the Nolan principles for MPs?

Ruth Smeeth: I do not.

Q6 Mr Grieve: Are all the rules appropriate? Is there anything missing, from a Member's point of view?

I just want to come back over Nolan a moment. I have no problem with the Nolan principles at all. They marry very easily with what a civil servant should do, and perhaps with what a Minister should be doing. I confess that I have always read the Nolan principles and scratched my head a little bit when I try to carry that over to what we get up to in this place. That may be a bit challenging for us, but I would just like to challenge you a little bit. Do you think they are really appropriate? Do you think there is something else that we ought to have?

Mr Brady: I suppose I would say that I think the key distinction for us is that our principal regulator is our electorate. While it is entirely proper that the House should have some expectations and some clearer rules, the real bottom line for a Member of Parliament is what I suppose most of have described over time as being either the "smell test" or, if you are going to do something or write a letter, would you be happy to see it on the front page of tomorrow morning's newspaper? Those are quite effective constraints on the conduct of Members as long as they are always kept in mind.

Ruth Smeeth: I totally agree. Whatever principles we put in place for how we choose to govern, each one of us does a completely different job than our neighbouring Member of Parliament—inside or outside the same political party. It is very much about the final arbiter being our electorate, and what they consider us to be.

Q7 Mr Grieve: Just to take an obvious example, if a civil servant didn't turn up to work, that might be seen to be a pretty big breach of the Nolan principles, or that he was not being diligent. But there are at least some Members of the House who decided, as an article of political faith, that



HOUSE OF COMMONS

they won't turn up here at all. I just chuck that in as an example.

Angus Robertson: That raises the question of second jobs. I don't know if you intend to come on to that, Chair. Ultimately, there is the gap between the rhetoric that says it is up to the electorate ultimately to decide and whether the electorate are fully aware of the circumstances in which every candidate suggests they might be able to perform functions outside their parliamentary responsibility. Where do you find that out? I have got examples before me of parliamentarians in another Parliament on this island who seem to think it is perfectly acceptable to have contracted jobs that see them not even turn up to Parliament to take part in Committees or votes of the Parliament because they are lecturing at public universities or refereeing Champions League football matches. How on earth do you police such a thing under the current general principles? The general principles do not capture what seems to me to be an egregious breach of one's responsibility towards the electorate.

Ruth Smeeth: I would suggest that if I never turned up in this place, I would not last as a Member of Parliament in my constituency for very long.

Q8 **Mr Grieve:** I think you would be quite surprised at one or two Members of Parliament who seem to do very well with hardly turning up here—not necessarily doing a second job, but simply because they think that they are doing better for their constituents, or better for their political careers, elsewhere.

Ruth Smeeth: I think my constituents would definitely hold that against me, but everywhere is different.

Q9 **Mr Grieve:** I think mine probably would, too.

Mr Brady: There are also those Members who are elected on a very clear pledge that they will not take careers. I suppose the core contrast between our position and that of civil servants is that they do have an employment contract; we are not employees and we do not have an employment contract.

Q10 **Mr Jinman:** I would like to follow this up, because it is a bit of a non sequitur from what you were previously saying, that if your electorate puts you there, you can't be all wrong—and yet you are saying that if you have a second job, and they still put you there knowing that you have a second job, then it can't be all wrong. I am having difficulty in squaring that circle.

Angus Robertson: I would be happy to square that circle when we get on to second jobs, because I think we need to be more prescriptive about that as an issue.

Q11 **Mr Jinman:** In a way, I am coming in to that subject, but I will address it slightly more specifically. Mr Brady, when you responded to the first consultation, you raised concerns about the interpretation of the paid advocacy rules in complex situations. It would be helpful if you could just explain what you had in mind and, indeed, your solution, which also has



HOUSE OF COMMONS

bearing on the point that I previously raised.

Mr Brady: The solution is difficult in a rules-based system, but the particular examples that I raised were, for instance, a Member of Parliament who also serves as a member of the Territorial Army. It may be that the House and the public would be particularly keen to hear their views of what life is like in a combat zone, or perhaps what their experience in recent conflicts has been; and yet a literal interpretation of the rules might prohibit them from sharing those experiences at all, because they have been paid as a member of the Territorial Army.

While in most instances it is pretty clear, where there has been a direct material benefit, that one shouldn't seek to be an advocate for a commercial or outside interest—and it is fairly easy, in most circumstances, for people to see where something has been done wrong—there are more complex areas. One can think of the Territorial Army. One can think of Members who are doctors and need to maintain some experience for their registration. One can think of Members who have farming interests and are better able to understand agriculture. There are many examples. I cannot think of a rule to encapsulate it. One comes back to common sense and transparency. As long as people have been open about what their own experiences are, and they are well known, it is for the House and for others to judge whether they are behaving appropriately.

Ruth Smeeth: There is a huge grey area in terms of additional employment. All the examples that we have just outlined include others, such as a physio who needs to keep a weekend every two months. A lot of our colleagues—we all—had occupations before we were elected, as most of our constituents would want us to do, so there is a grey area, but that should be an open and transparent conversation, which is recorded, about how it works. All of this comes down to transparency; some issues cannot be legislated for and we cannot have rules for, but there should be an open conversation with the Commissioner about why someone is doing what they are doing, and why and what that would mean in this House. If we did not have that but people had gone through those experiences, or they might be doctors who until recently or still were serving in the NHS but were not able to articulate their views, the House would be a poorer place for it, and debate would be poorer for it. There has to be a level of compromise. It is not instead of the Nolan principles. I would hope that this strange and unique place in which we work would allow us to add to the debate.

Angus Robertson: It is inevitably the case that, thus far, we are talking about exceptions to what I would hope we all believe we agree. Do we not all agree that being a parliamentarian is a full-time job? I think it is. I think we should have the attitude of it being a full-time job. Does anyone in any other career, when they have a full-time job, think that they can just swan off and do something else and get paid for it when actually they should be doing their day job? To my mind, that should be the basic principle when it comes to our work in Parliament. Unfortunately, I cannot think of a pithy way in which one can capture the exceptions to the rule—I



HOUSE OF COMMONS

think it is absolutely right that colleagues should be able to maintain their professional qualifications, or that people in their spare time who have important public services, such as being in the Territorial Army, should be able to continue doing so—but we should start from the basic principle that being a Member of Parliament is the first and primary obligation of anyone who has the honour to have this job. That should be the starting point.

- Q12 Tommy Sheppard:** Good morning. We have dived into the area that I was delegated to ask about. Let me try to take it forward. One of the things that we are preoccupied with is the concept of conflict of interest. We are engaged in a discussion that is about not just identifying conflicts of interest, but trying to resolve them in favour of the public. Given that one of the potential conflicts of interest would be to be on someone else's payroll while being an MP, may I ask you, because all three of you seem to be indicating this—but let me just clarify—if you think that, as we develop the code of conduct, we should, in the rules, move into the area of regulating secondary or tertiary employment for MPs? If so, do you have any specific suggestions as to what those rules should be?

Mr Brady: I would not suggest that. What we should be interested in is regulating the conduct of Members of Parliament in their parliamentary duties. It is obviously entirely right that conflicts of interest ought to be at the forefront of that concern. Any Member with an outside interest ought to make it very clear to all involved that that could never involve advocacy. Ironically, I suppose, the only outside interest that I have to which I give any time of any note is as a professional regulator. I sit sometimes as a tribunal member for the Medical Practitioners Tribunal Service. I find that quite a useful experience. Although I do not think there is any need to regulate what Members do in those activities, it is entirely right to regulate what Members do in their parliamentary activities.

Ruth Smeeth: I think it is about transparency, and that is what it comes down to. I am on the board of a charity, and I do a lot of work in my parliamentary activity on similar themes: it is about community cohesion and tension. I do a lot of work here on similar issues. I am very up-front about my involvement in the charity, but I think it is about how transparent you are about it.

I agree in terms of regulation, but I think it is about being clear that there is a record of who we are and what we are doing outside this House, if we are doing extra things at all. For lots of our colleagues, it will be in the charitable or third sector; it may be writing a book, but that lead to another issue. All of this is very grey. We have many colleagues who write for national newspapers, or the mainstream media, and many who write books. Most of that could be viewed as an extension of the work that they do in this House, but some examples are not. If you started trying to regulate for the sake of regulation, as opposed to being transparent and recording what it is, I think you are in a very difficult place.

- Q13 Tommy Sheppard:** Just to press you, are you saying that, provided everything is out in the open, there should not be any other constraints



or limitations on Members' external employment?

Ruth Smeeth: I do not have any additional employment, and I would not, obviously—my party's manifesto in the last general election included no additional employment, but that is for people further up the pay grade than I to articulate. I would suggest is that as long as we are sticking to the Nolan principles, which is what this is about, as long as the code of conduct is clear and as long as we are transparent about what we are doing and alert everyone to the register of interests as and when we speak on anything that could be conflicted, as most or all colleagues do now, to create regulation would just add to the burden of regulation, as opposed to solving an issue and ensuring that the public are protected from any perceived conflict of interest.

Angus Robertson: I don't see any reason why one should not be explicit about the fact that being a parliamentarian is one's primary job and responsibility. I do not see what the problem is with that. I concede that there are challenges and grey areas, but I think we should be absolutely clear about the fact that this is our main responsibility.

I think there are certain things that we should not do. We should not enter into contractual obligations which mean that we cannot perform our function as parliamentarians. How could I possibly sign a contract that would bind me to lecturing elsewhere on days when Parliament sits? How could I possibly enter a contract to fly to other European capitals to referee football matches on days when Parliament meets? This currently happens—these are cases in the public realm involving parliamentarians in UK Parliaments at the present time. Do I think that is a problem? Yes, I do, because I also have a quote from one of them saying that they would not do this. It is in the public realm: they told their electorate before they were elected that they would not do it, and they are now doing it. I am sorry; it is not working.

Should we do something? Yes. Will there be grey areas? Yes. Should we do nothing? Absolutely not. We should make it absolutely clear that this is our main responsibility, and we should try to find ways to deal with the grey areas.

Q14 **Susan Elan Jones:** We have talked a lot about exemptions, grey areas and all the rest of it, and I agree with much of what the panellists have said, but I am intrigued to know whether the panellists actually believe that there would be an inherent difference between taking a second job, and doing however many hours that would take, and just being idle in those hours. Is there a difference in principle there?

Mr Brady: There is something to be said for both. I sometimes think that the biggest problem we have is that Members of Parliament do not spend enough time reflecting and thinking, rather than just running around and doing.

There are two specific points I feel I ought to make at this point. One is that by far the biggest outside interest influencing behaviour in this House is the holding of ministerial office. It is very important to remember when



HOUSE OF COMMONS

we start to talk about other contractual commitments that that is something that can dominate a Member's life and condition their behaviour in every respect. That is a further element that we ought to consider.

The other thing that I will just reflect on is that there are unpaid interests that might take up considerable amounts of a Member's time and might provide a considerable public service, but which might also condition their attitudes and conduct here. Frequently, it is not possible to regulate those interests. I was a governor of a university some years ago, and I thought, "This is an important thing in my part of the world, and I ought to be very clear that I am doing this," and I was told that I wasn't allowed to register it. I felt quite uncomfortable about that.

Q15 Sir Paul Beresford: I agree with your point. One of the difficulties is that there are a lot of jobs that are unpaid, unregistered and not reflected when we make a statement in the House. If someone belongs to CND, I think it would be inappropriate if they did not declare it when we debated nuclear issues, and I am quite sure that we could find individuals who have not declared it.

I listened to the idea of it being a full-time job. I do not know any MP—Dominic and I have done a count of hours—who is not working in excess of 60 hours a week, seven days a week. If they are doing something outside as well—and it is well known that I do—it has to be declared and be very open. I have been open about it for decades, and my constituency majority has not reflected any concern about it—completely the opposite.

You are right that an MP's job has to be a full-time job, but you are also right that a job can contribute massively. By sheer coincidence, if you look at today's agenda, there is a debate on variant CJD and surgery, which covers a complex issue, and my contribution comes from my knowledge of medicine and dentistry. There is a large number of MPs—dare I say this? I hope MPs will agree with it—whose contribution as lawyers has been massive to the working of the House.

At the end of the day, do you not believe that it is the public, the voters, who have to decide? As you point out, they need transparency to be able to judge it.

Angus Robertson: As you can wonderfully say in German, jein—yes and no at the same time. I agree with what you said at the start, and I disagree with what you said at the end. I totally agree that there are huge advantages for parliamentarians in being able to maintain a professional or personal interest on a whole range of issues. No, I don't agree with you that we cannot be clearer in the rules on the issue of an MP's job being primary employment. I have given two concrete examples in the public realm of parliamentarians in the UK who are currently working in circumstances, in second jobs, that I believe are contradictory to any notion—

Sir Paul Beresford: In this House?

Angus Robertson: No, in the Scottish Parliament. Obviously, there is an issue for regulation in respect of the Scottish Parliament to deal with that matter.

I am sorry, but the notion that the public can decide and that that will regulate everything is not enough. I agree with you that, overwhelmingly, parliamentarians work extremely hard. The cases I have raised are a small minority, but we are dealing with the wider issue that we started with, which is about the public having confidence in what we do. So long as there are examples, even just a small number of examples, of things not working to the highest of standards—and given that this is about the representation and governance of the nations on these islands—it behoves us to strive for the best rules possible, even though we may have challenges when it comes to the grey areas. So long as there are examples of people telling the public one thing and then doing another thing when they are elected, the unregulated space that you are suggested is not acceptable.

Q16 **Dr Midha:** I have some empathy with the view that MPs have a full-time job. As my colleague has said, 60 hours a week is pretty horrendous.

Sir Paul Beresford: We all look 10 years older than we are.

Dr Midha: Yes. I'm 75 and I'm not an MP.

Angus Robertson: That's it; I'm actually 25.

Dr Midha: Is the issue not whether an individual MP has a second job—you could promote the argument that it would be an enhancement in terms of your variant CJD issue and so on—but that it should not be to the detriment of delivering on your role as an MP? The difficulty is how you define what the role of an MP is. From a lay perspective, I suspect the vast majority of the public would want you to be working all the time on your MP role, but how do you define it?

Angus Robertson: Well, if it meant that you didn't turn up at the Committee that you were a member of because you were in another country refereeing a football match, or you were not at a meeting involving other parliamentarians because you were lecturing at a university, that would seem to me a pretty clear-cut case of someone not treating their job as a parliamentarian as their primary responsibility.

Ruth Smeeth: Every constituency is completely different, even though we tend to try to band them together. We all have different responsibilities to our constituents, and our constituents have different expectations of us. There isn't a job description when you first get elected. It is about the work that we choose to do. I am on Committees; some of my colleagues are not. Some of them spend a great deal of their time in the Chamber; others do not. There is not a clear role that MPs do.

Sixty hours is a light week; it is not by any stretch a normal week. I work anywhere between 60 and 100 hours a week. It depends on what we are doing. This is our lives; this is not a normal form of employment. I do not



HOUSE OF COMMONS

even believe this is a job. This is a vocation for us; we are trying to be public servants. That means that we all have different expectations. I have done five and a half thousand pieces of casework in 18 months. Some of my colleagues will have nowhere near that burden, and for other colleagues, that will be the only thing that they do and they will do much more casework than that. Each one of us has a different role and different obligations and responsibilities. That is even before we talk about the concept of our friends and families behind us.

In terms of second jobs or additional employment, there has to be some level of trust, as difficult as that is to say about us as a collective group of Members of Parliament. We got here because we are committed and passionate about trying to change and act for the communities that we seek to serve, and there has to be a level of trust in what we—the 99% of colleagues who are here for exactly the same reasons as I am, regardless of their political affiliation—are going to deliver. We have to be really careful not to focus on the one or two examples that diminish all of us, as opposed to those of us who sacrifice a great deal in terms of being with our friends and families in order to deliver the things that we want to.

Mr Brady: It is an immense honour to be elected to Parliament, and I think all of us would agree that it should of course come ahead of any other interest. That is a given. I do not think that means it is impossible to do other things in spare time, if any spare time arises.

It is also very difficult to define the role of a Member of Parliament, because certainly those of us who are here for any significant period of time will do so many different things. Over what is now, shockingly, almost 20 years, I have been a member of Select Committees, a shadow Minister in numerous Departments and Parliamentary Private Secretary to the leader of my party, and I have spent the past six and a half years as chairman of the 1922 Committee—essentially the Conservative parliamentary party. Those all have completely different demands on one's time and a huge impact on, for instance, how much time might be spent in the Chamber or in different Committees, but I think the whole adds up to something much greater than the parts.

Q17 **Mrs Burgess:** Good morning. I want to take a slightly different tack and return to something you said earlier about the responsibilities of your senior staff—the relationship you have. Should Members be given a new duty of responsibility for the actions and behaviour of their staff? I would welcome your views and thoughts on whether it would be better to have a separate code of conduct for members of staff, or would that dilute the accountability?

Ruth Smeeth: I take full responsibility, legally, for what my staff do or do not get up to in my name. Fundamentally, it is my name above the door and all of my team work to further the aims and objectives of my constituency in my name. So, whatever actions they do or don't do, that is my responsibility and I would take full responsibility. That is why I talked right at the beginning about ensuring that they have the training to keep



HOUSE OF COMMONS

me on the straight and narrow, but also to keep themselves on the straight and narrow.

Given the broad range of principles set out by Nolan, I don't think we need yet another code of conduct; we just need to ensure people are well trained. I would be very reluctant for my staff to have alternative responsibilities, because of the role in public life that they have by accident, to the ones already laid out. Having a level of coherence and consistency, as well as transparency, is important.

Mr Brady: I broadly agree with that. I would add that, unfortunately, from time to time, probably all of our staff find themselves under particular pressures, apart from just the pressures of trying to do a good job, working long hours and so on. Sometimes they find themselves the victims of quite serious abuse and aggressive behaviour from members of the public. Thankfully, most of my constituents are very courteous people, but there are occasional exceptions. Sometimes, people who aren't even connected with the constituency take it upon themselves to call a particular Member's office on the telephone.

It is important not to add to that burden. Sometimes, there are quite difficult circumstances for our staff to deal with. I think it is probably better that, when they are trying to balance how to do that, their main recourse is to the Member who employs them. For instance, sometimes, it is we who will make the call on whether it is time to end a correspondence with somebody who is behaving unacceptably. I would not want my staff to be criticised for deciding not to continue dealing with somebody who was abusive.

Angus Robertson: Given that there have already been some discussions about the proposals for changes, I think I am right in saying that the only specific change in updating things is in relation to contractors. It seems to me that if the code currently works in relation to staff and our relationship with staff, that is a good thing. So, no is the answer to your question as to whether we require an additional or parallel sets of rules. Things are working well. But if there is a gap in relation to contractors, why not update things to make sure that everybody is covered by the rules?

Chair: Thank you. Let us move on a little bit.

- Q18 **Susan Elan Jones:** I am wondering what type of training and support would be most effective in changing the culture around compliance with the code and on leadership. I am also wondering what action, if any, the Members on the panel feel should be taken for those Members who do not wish to take part in training or receive that support?

Angus Robertson: On training, the first thing to be aware of is that there are plenty of opportunities to be trained and get guidance. We are not talking about an absence of training opportunities or an absence of guidance. Where there is a challenge—this goes back to an observation that I think we have all made—is that parliamentarians work in different ways and spend many hours working on the things that they have to do in



HOUSE OF COMMONS

their constituencies, and here as well if they are Ministers in addition. So, the challenge is to make sure that the training is available in the way that works best for all parliamentarians and, indeed, for all staff.

I will just give an example, because my party is literally in a unique situation in this respect. At the last general election, our intake went from being 1% of the House of Commons to being the third political party in the House, and we had a concomitant rise in staff numbers. The work that we have been able to undertake with the Commissioner and staff has been exemplary. We had a staff away day last Friday with staff from constituency offices right across the country. Staff from here who deal with these sorts of issues travelled to Scotland to speak to all our staff, and that offer has been there for all our parliamentarians as well.

Yes, it is about being on the intranet; yes, it is about being given a big folder; yes, it is about being reminded by one's parliamentary group that there are different training opportunities and we should take part in them. How do we deal with those who have not yet availed themselves of the training? That is, indeed, a difficult question to answer. I do not know how the 1922 Committee or the PLP would deal with that. As the parliamentary leader of the SNP, I would be interested to hear whether any of my colleagues have not yet found the time to avail themselves of the guidance or training, because I think that would be disadvantageous to them, but I am confident that people have.

Q19 Mrs Darcy: We have talked quite a bit about how you involve people through training and more formal ways of trying to get people to uphold the code. My question is more about how we move to a situation where MPs feel greater ownership of the code, and actively promote the principles in the code among themselves. All three of you are in positions of leadership in your parties. I am very interested to hear your views on what you do in your parties to try to encourage ownership of the code and leadership on the principles.

Mr Brady: Perhaps counterintuitively, although I may chair a Conservative party committee, my instinct is that there is perhaps too much party involvement in these things. I think that the real core comes back to the direct relationship that an elected Member has with his or her constituents, the legitimate expectations placed on them by constituents and by the House, and what ought to be an overriding expectation that they should behave with propriety and integrity. If you start to move too much to a world in which people are judged on a tick box of whether they have undertaken a certain training course or been involved, by their party, in a particular approach to the way that their duty as a parliamentarian ought to be carried out, you lose something and possibly move in the wrong direction on this. It ought to be seen very much as our responsibility.

Ruth Smeeth: I suggest that the Nolan principles are already very much ingrained within the nature of this House. Especially post the expenses scandal—obviously I got elected after that—MPs are very wary and are very aware of their responsibilities and what that means. When we talk



HOUSE OF COMMONS

about the sniff test, or the newspaper test, that is a real life thing for every Member of Parliament. On that basis, there is already a great deal of ownership.

It is about ensuring that the support is there. What most of my colleagues most fear is inadvertently breaking the rules. For those people who are going to break them on purpose, that means a conversation with the Whips Office. On a broader scale, especially for newer or less experienced Members of Parliament, it is truly knowing that—the first time you put something in the register of Members' interests is a terrifying experience. You want to make sure you have done it properly. There is the terror of ticking B instead of A. We make those things very difficult. It is already very much ingrained, but I think we need to take some of the fear out of it. If it is just about openness and transparency, that should take some of the fear away.

Angus Robertson: What we are talking about here is best practice, isn't it? How do we make sure that we can do our job as well as we can? It is not just a case of 650 or whatever MPs running the equivalent of a small business in glorious isolation. There is quite a high degree of co-operation and sharing of best practice. Is that under the aegis of a presentation about the code of practice and the Nolan principles, and for that reason we must do X and not Y? That is not my experience of how it works. In the SNP, best practice is a subject of our group meetings, away days and staff training. That is something that we are continually doing. It is about best practice. How do we operate as optimal parliamentarians?

No doubt people will continue to operate their own approach, but it should be under the aegis of best practice and when in doubt about certain things, one can turn one's attention to the code of conduct if there are any questions. This goes back to the point that Sir Paul was raising. Parliamentarians work very hard—by and large, they work really hard to do the best job that they possibly can—and that means, by and large, that we do not need to revert to a rule book to know how to do it. It is about best practice, but when in doubt, we need to have the rules to make sure that we capture the small number of people who don't do what they should be doing.

Q20 **Sir Peter Rubin:** The question I have been allocated comes back to your answers to the first question, and particularly yours, Ruth. How can the code and the guide to the rules be made as user-friendly as possible?

Ruth Smeeth: Don't give it to anyone on their first day, because that is just cruel. I have outlined what I think it should do. There is a lot of preamble—I think you wanted to talk about the new preamble to the code, Angus—but if we look at the code, this is what you get given on your first day. It is great, but it did contribute to my foot and a half of paperwork. There is a lot of, "In this folder you will find the code of conduct for Members of Parliament, the purpose of which—". Actually what I really needed on day one was, "Here are the Nolan principles. This is what your life is now—good luck," and then later on, someone being sensible and

talking it through. Anything else—not just the code of conduct—just lives on the shelves in my office. So anything but that.

Angus Robertson: Sir Peter, just to be specific, we are not talking about this just as a matter of principle, are we? This evidence session is about specific proposals that have been made. In relation to your question of how the code can be user-friendly, surely it should involve all of the rules that impact on us as parliamentarians, which is currently not the case. I understand that one objective in updating the code is to include particular rules that are found elsewhere that could sensibly find their way into the code. That seems entirely sensible to me, notwithstanding the fact that that doesn't solve Ruth's problem, because on day one—

Ruth Smeeth: Just not on the first day.

Angus Robertson: Because on day one, some more pages are added, but they would be in the same folder. Notwithstanding the initial challenges that Ruth rightly outlines, I think it makes perfect sense and it will be more user-friendly in the longer term if we have one folder that you can go to where you have all the rules, and you do not have to look at a number of other documents to satisfy yourself that you are doing the right thing all the time.

Mr Brady: I think that putting all the rules in one place makes obvious sense. Most Members would probably quite appreciate that. In terms of revising the wording of the guidance or rules, I think there is a danger that every time they are revised, they become more complex in some ways or open up new difficulties that have not been anticipated, so I would be very wary about changing the wording of things just for the sake of it.

Angus Robertson: Can I just inject another note into the discussion around the code? The Commissioner has a clear job to perform in upholding the standards of the code and the code itself. We all know, however, that the code is prayed in aid for vexatious reasons, which can have a hugely detrimental impact on parliamentarians. All that needs to happen is for somebody to say, "Oh, I've referred so-and-so to the Commissioner for Standards because I think they are in breach of X, Y and Z," but that might be inspired by a journalist or by somebody for political reasons—who knows? Those people may well know that it is clearly not a breach of the code, but that is not the point. The point is that political damage and point scoring is involved.

Something that would clarify from the off, very clearly, what is and is not a subject for complaint, would be hugely beneficial. I am sure that it would be helpful to the Commissioner not to have to send out hundreds of letters saying, "Thank you very much for your complaint, but it has absolutely nothing to do with the code. Goodbye." It would also serve the purpose of being more user-friendly for the overwhelming majority of parliamentarians who are getting on with their job. That would be a useful addition—and good luck with the drafting of such a clarification.

Q21 **Chair:** I remember having a debate a number of years ago about whether



HOUSE OF COMMONS

the Commissioner should accept complaints in the run-up to a general election, and having to say, "That's a matter for the Commissioner to accept or not." A complaint to the Commissioner—politically instigated or not—has to have some evidence with it, or else it doesn't go any further. We are stuck in this situation of transparency and I am afraid that the reporting even of complaints that are found to have little basis is still something that happens in the system.

Angus Robertson: Can I raise an issue, because I'm sure the objective of the Commissioner's draft and of your considerations is to tease out where there may be unintended consequences in updating the code, in ways that I don't think anybody intends? At this point, Sir Kevin, if you will allow me, I will just highlight something that may not even have jumped out from the potential changes as being a problem. Under part 2 of the revised code of conduct on the duties of Members, it says that all Members have a duty to "act in the interests of the United Kingdom as a whole".

It is a matter of fact, Sir Kevin, that the majority of political parties in the House of Commons wish their nation—their part of the United Kingdom—to secede from the United Kingdom: political parties from Scotland, Wales and Northern Ireland. The current drafting is perfectly adequate and does not lead to vexatious complaints, because it allows those of us elected on a mandate to seek independence for our nation, which in my case is Scotland, so I don't see why we should update the wording, when it would allow people, for all kinds of political reasons, to say that I am in breach of the code. I do not think that is the intention, and I would strongly advise the Committee and the Commissioner, who I know has heard this, against it. I would like to put it on the public record, because I now have the opportunity to do so, that when we met her, I had the support of colleagues from the Conservative party, the Labour party and the Liberal Democrats, as well as other political representatives.

I very much hope that the Commissioner has heard that this is a potential problem, even if it is clearly not her intention that that be the case. May I just point out what the current wording is, because it seems to work perfectly well? At the present time, existing Members are required "to act in the interests of the nation as a whole". That is fine. My nation is Scotland, so that is not a problem. If my nation were Wales or Ireland, it would not be a problem. You change it to the United Kingdom and it's a problem. I would hope that we stick with the wording as it currently stands and that we don't cause a problem, which I don't think is the intention of the Commissioner.

Q22 **Chair:** Well, we hear what you say, and obviously we'll be making recommendations at some stage in this process.

Mr Brady: That is a clear example of how an attempt to clarify the rules by changing the wording can perhaps create problems that did not exist before. However, what I really want to do is to endorse the broader point that Angus Robertson made about the value of a better preamble.



HOUSE OF COMMONS

When some of us met the Commissioner last week, it was very clear that there were a number of issues that we discussed and potential problems that we raised where she would say, "That's not a problem, because that's not something that I could investigate." However, it was far from clear to us that those were things that would be without the scope of her jurisdiction. I think that a clear statement of those areas that could not be the subject of a complaint might save a great deal of difficulty for a great many people.

- Q23 **Chair:** Thanks for that. I know two of you may have a quick answer to this—I hope it is quick—but you may remember that we brought in the Respect policy into the House of Commons quite a while ago now because of the issue of relationships between Members of Parliament and staff of the House, as opposed to Members' own staff, who are covered by employment law. There is a suggestion now that the principle that MPs are expected to show courtesy to all will be written in. Presumably you would have no objection to that.

Angus Robertson: I have no objection to that. It is an eminently sensible suggestion.

Ruth Smeeth: I have no objection whatsoever.

Mr Brady: I have no objection at all when it comes to staff. Again, I just raise the issue that has been raised with me by some colleagues. If there are instances where a constituent, perhaps, has been quite abusive in dealing with a Member of Parliament, there may be limits to the normal courtesies that we would be expected to follow.

Chair: I hear what you say about that, and I also have to hear it on occasion as an MP as well. I have to try to be diplomatic in life, and all of us have to do that. You are tested on occasion, but not normally in the situation of working in the House of Commons. That is what we seek to do over these years. I would like to thank all three of you for coming along and giving evidence to us. We will be reporting to the House in the future on any of proposed changes.

Angus Robertson: Good luck with your deliberations.

Examination of witnesses

Witnesses: Mr Bernard Jenkin MP, Dr Sarah Wollaston MP and John Mann MP.

- Q24 **Chair:** I welcome you to our third evidence session looking at the code of conduct. Could I ask you to introduce yourselves individually and state the position you hold and why you are here?

Mr Jenkin: I am Bernard Jenkin, the Chair of the Public Administration and Constitutional Affairs Committee. My Committee has submitted evidence and I am appearing here to explain it. What I say has not necessarily been cleared by the Committee, but the evidence has been cleared.



HOUSE OF COMMONS

Dr Wollaston: I am Sarah Wollaston. I am the MP for Totnes and the Chair of the Health Committee. I am not speaking here on behalf of the Committee. I was asked as a Committee Chair to give evidence in an individual capacity.

John Mann: I am John Mann MP, and I am here because you invited me.

Q25 **Chair:** That's honest. I will start on a general question about how well the current code meets the requirement that it be accessible, clear and intelligible, with clarity about rationales and intended outcomes. As Members of Parliament, do you think that the code does that?

Mr Jenkin: I would say not. I would go right to the top line. What is the code of conduct intended to achieve? Various elements have been introduced over time in order to try and address a perception that Members of Parliament are not good people and don't behave well.

We have finished up with an evolving document, which confuses two things. One is the set of principles and values by which we would wish to conduct ourselves and by which the public expects us to conduct ourselves. The other is the rules, which need to be adjudicated on and to carry a punishment or sanction if we break them. What we have here is a system that creates confusion, because it is difficult to translate broad principles into hard and fast rules.

I hope that what the evidence we presented clearly suggests is that we should make a clearer distinction between the principles of public life, as they should be adapted for parliamentarians, and the detail of the rules, which carry a sanction and need to be adjudicated upon impartially according to evidence, which is intended to tell us what we can and cannot do.

Dr Wollaston: I agree with Bernard so I won't repeat that, but I would ask whether the Committee has looked at other similar professional codes. Before I came into politics, my background was in medicine. It is worth comparing our rules with the GMC's "Good medical practice" document, which sets out broad principles but gives much clearer guidance. Even with that more detailed guidance, of course, there are still going to be arguments, because you cannot cover every eventuality, but I think having a little more guidance would be helpful, particularly for new Members.

As Bernard says, a lot of this boils down to public trust. There is a huge amount of distrust and dislike of MPs out there. When you change initials from GP to MP, you certainly notice the difference in the way the public feel about you. I think that is a shame, because almost all the colleagues we work with are trying to do the same thing. I see colleagues working with integrity and dedication. A lot of that public mistrust does not reflect the reality of what Members of Parliament are doing, so I think more guidance would be helpful in clarifying things both for the public and for new Members.



HOUSE OF COMMONS

John Mann: I think they work very well—the transparency has worked very well. I gave evidence on behalf of the trade unions first to Lord Nolan and then to the second inquiry in '96 and '97. The issues kicking around with trade unions were sorted within those 12 months and have never been resurrected, because there is absolute transparency there. The Commons compares extremely well with other Parliaments across the world and with the House of Lords. While the internet creates some other complications, it also assists with transparency because it allows people to know what we are doing and how we are doing it. I think the current system works well.

Q26 **Mr Rader:** Notwithstanding the other rules you mentioned to us today, how do you use the code in the discharge of your functions as an MP?

Dr Wollaston: Reiterating the Nolan principles is really important when people enter the House, but to be honest, I did not feel as a new Member that it gave me a great deal of detail. Something that put a little more flesh on the bones would be helpful, but I appreciate that you cannot cover every eventuality.

John Mann: The most difficult thing with the Nolan principles, in my experience, is not individuals understanding them and abiding by them; it is getting staff—occasionally volunteers, but particularly staff—to understand their practical effect. When they are initially employed by an MP, people tend to think of things from a partisan, party political perspective. It is about trying to explain that the role of an MP has to mean that, when someone is a member of society who does not vote, does not intend to vote and does not intend to be particularly polite to a Member of Parliament, that does not necessarily mean that they should be shown the door straight away or have the phone put down on them. That is a small issue that could probably be addressed: the code has been thought of as applying to MPs, but in reality it also has to be for those who work on behalf of MPs.

Mr Jenkin: When you're using the code, you have to do two things. You have to look very carefully at what the rules actually mean and you have to conduct yourself within them—but actually that is not enough. You also have to use your judgment of whether what you are proposing to do or thinking of doing is ethical and justifiable to your constituents and to the wider public, and how it will be perceived. That underlines the problem with the rules; if you are trying to embody principles in the rules, you finish up with very broad rules, which are rather difficult to interpret.

An example that is very close to your heart, Sir Kevin, is your own recent case, in which—in perfectly good faith and without any bad intention—you raised a sum for a charity by arranging an event in the House of Commons. For the life of me, I cannot possibly see how that is a reprehensible thing to do, but it fell foul of a rule, because the rule is drawn widely to try to govern ethical behaviour. If you look at something like the police service, the police service has recently instituted a new code of ethics. There is no sanction—a large document, but there is no sanction for a breach of the code of ethics. It is to inform the practice of



HOUSE OF COMMONS

governance in the police service. Now governance is an important word, which tends to be over-used. Governance is not compliance. Governance is not good management. Governance is about leadership and the protection of reputation by looking at people's attitudes and behaviours. You cannot regulate people's attitudes and behaviours purely by rules. There needs to be a different conversation. Governance is in that space between the principles and what should be the rules. The rules should be tightly defined and very clear; the principles should be broad and general and should inform people's behaviour whether they are in breach of the rules or not.

In fact this leads into the whole question of how we conduct ourselves other than when we are actually acting as a Member of Parliament; because anybody in public life knows you do not step out of public life on a Saturday night. So we have this argument about whether the code of conduct should address how MPs conduct their private lives. Obviously it would be inappropriate to make rules about that; but the code of behaviour of Members of Parliament and what we expect of our colleagues, and the way it reflects on the House, clearly does impinge on that. It need not carry sanctions, but it is something we should be able to talk about and discuss among ourselves, so that we can support each other and create a more general understanding of what is acceptable and not acceptable to the public.

- Q27 **Mr Rader:** On that general understanding I wonder would you have any suggestion for our consideration as to how we might go about communicating whatever the outcome of this review is, so that there is a better understanding, particularly with members of the public, about the rules, guidance, ethics that apply to elected representatives?

Mr Jenkin: My recommendation would be—and it is set out in our evidence—that there is a clear and visible separation between the rules and the code of ethics and that we establish means of talking among ourselves about the code of ethics separately from what the rules actually say. This is very common to other professions—medicine for example. The Hippocratic oath is not written into a regulation but it is a very necessary part of behaviour as a clinician.

I think if there were two separate documents: we recommend that the rules should be adjudicated in a far more quasi-judicial manner than they are at the moment, by somebody separate from the Commissioner; and the Commissioner should be responsible for promoting what is a complete gap in the House of Commons at the moment, which is this business of the broader question of governance. It is very difficult for the House as an institution to be mindful of itself and how it is perceived without finishing up with motions and amendments and debates and votes, and then finishing up as we are, discussing in this Committee, now. I think the Speaker invokes colleagues to behave with a bit more dignity at Prime Minister's questions for example. This reflects, he would argue, badly on the House of Commons—when we are all shouting at each other across the House of Commons; but how do we discuss that kind of issue, which drives people's perception of how bad politics and politicians are?



HOUSE OF COMMONS

I fear what we are doing at the moment—by concentrating so much on rules we are creating more and more tripwires for people to fall foul of rules when they have no bad intention to do so. For excusable reasons we all fall foul of rules from time to time; but we are not addressing what is of real public concern: that MPs appear to have bad and destructive attitudes or do not have a proper moral outlook—which undermines respect for the House of Commons as an institution and, indeed, leaves Members confused about how to interpret these rules, because they are purporting to be principles as well as rules.

Chair: May I bring Charmaine in at this point?

Q28 **Miss Burton:** How can you build a culture of shared values and standards of behaviour among Members of all parties?

Mr Jenkin: We have no mechanisms to do that in this House. With the best will in the world, if the Standards Committee produces a report and it does not address attitude—how we live our values as individual Members of Parliament—as opposed to rules, nobody is going to talk about attitude. I think there needs to be much more induction around principles and values rather than just rules.

On the earlier question about how we use the code, I almost guarantee that most Members of Parliament only look at the code when they are worried about breaking a rule. The seven principles of public life is very up there and out there, but it is not what we talk about in the Tea Room. Maybe we should.

How should that conversation about principles and values be promoted? It is the top question, because in any other public institution there would be a chair and a board and they would talk about these things all the time in order to protect the reputation of their organisation. Reputation is intrinsic to good governance, and the mechanisms for good governance in the House of Commons are very thin.

Dr Wollaston: There is undoubtedly some unacceptable practice that happens in the Commons. As a doctor, if I had been listening to colleagues mocking people's regional accents—even mocking people who speak with dysarthria because of a medical condition—they would be expelled immediately, and rightly so. There would be some mechanism to discipline people. But that seems to be regarded as acceptable behaviour by some of my colleagues. I think setting this kind of thing out in a code of conduct is important.

Just to reinforce the point I was trying to make earlier about providing more guidance, if you take an issue like confidentiality, for example, very often within the course of our duties there are complex situations where it would be in somebody's best interests to try to seek their consent to involve a medical practitioner or a member of their family—you might be very concerned about them—but there is almost no guidance about confidentiality. It talks about not using information for the purpose of



HOUSE OF COMMONS

financial gain, but perhaps that needs to go further and make it explicit that it should not be used for party political gain.

What is the acceptable practice around confidentiality, naming people in the House and seeking consent? I think expanding that as guidance would have some value in the same way that other professional codes do. I think it is about being helpful to Members, making it clearer to the public what the duties of an MP are to their constituents, and it is also around codes of conduct so that if you need to call out unacceptable behaviours you have got something there that you can base that on.

John Mann: I don't disagree with that, but I think that is difficult to do beyond what is already there. To give an example, if there was a meeting that went on, say, in this Committee Room, convened by a Member of Parliament where there was overt racism allowed by that person, and there was clear evidence—let's say a recording—that that was not challenged, I would anticipate that a complaint would be made and I would be surprised if there was not some kind of action taken in relation to that.

To take, in a sense, one of the more difficult ones to deal with, which could occur, I chair the Committee on anti-Semitism and I would be confident in the system on that. There are two aspects where I am not confident in the system. The first is the clarity of the rules. I come back to this question of using rules for fundraising.

The Speaker of the House of Commons uses the Terrace on new year's eve for fundraising. I have paid a donation, openly and explicitly, to some charity to have the privilege of standing on the Terrace as a Member of the House of Commons on new year's eve. I'm perfectly happy with that system. But if I book a dinner with one of my companies in one of the dining rooms here and, let's say, they bring along their Japanese counterparts to try to win some business, I would be very comfortable in that and in attending as required and encouraging that dialogue and giving them a tour, if possible, of the Chamber etc. What if that company then made a donation to my election campaign? I would say that that is crossing the boundary. I would feel uncomfortable with that, because it seems to me that there would be direct linkage. There are ways and means by which that could be done within the rules, but I would be uncomfortable with it. What if they made a donation to the charity walk I did this year, directly to Help for Heroes, and said, "As a token of our thanks for the help you gave, we have made a donation to your fundraising for Help for Heroes"? Is that something that should in any way reflect badly on me? Should I demand that Help for Heroes return it, because it is potentially linked to me booking a facility in here?

I think that that rule is nonsense. If I held an event here with Save the Children and had a raffle or auctioned stuff for Save the Children, that should be seen as a good thing. The rule is the problem there. The flip side of that—you probably invited me because of this—is that with another MP, Kevan Jones, I made around 80 complaints in a 12-month period



HOUSE OF COMMONS

against Conservative MPs for using the dining rooms to fundraise for the Conservative party through dining clubs.

Kevan Jones and I were not attributing anything untoward to any individual. What we wanted to do was stop a practice which, in our view, gives a competitive advantage to a competing party, but also blocked out dining room facilities that could be better used. We succeeded, but the only way that we could do it was by taking individual complaints. We got a fair amount of hostility back—little bits of it still exist—for making a complaint against people that then went on the public record. They were all ruled against, the system was changed and I do not think it has happened since, so we succeeded in our objective, but that is not a good system for trying to get rules working effectively, so there is an issue there.

The final point where there is a big hole relates to staff in this building. There has been improper sexual behaviour in this building that I am aware of, with members of staff, by Members of Parliament, including in recent times, in the last two years. I have had complaints about that. The individuals do not feel comfortable or confident, working in a political environment, with raising that issue. They explicitly did not want me to raise the issue, which potentially would involve naming them. Call it a whistleblowing issue. The one area where Parliament has not caught up with where it should be is the treatment of staff—I include House staff in that as well—and volunteers here, who are usually known as interns, but I will not use that as a technical term. That is still a problem today. It has not been addressed, and the system does not allow it to be addressed.

The way that it should be addressed is not by me making a third-hand allegation against another MP. That is not how the system should work. There is no confidence among people that that kind of serious allegation—this is in recent times; I am not just talking historically—would be addressed. That is a problem that needs to be thought through and needs a solution, and it ain't going to be the rules that effect that solution, in my view.

Q29 Chair: Are you saying that there ought to be some sort of confidential whistleblowing system?

John Mann: Absolutely, there should. Potentially, it should also be available to Members of Parliament. I have only been here 15 years, but in that 15 years, the atmosphere has very significantly improved; I think that is because there are far more women here. There is also a slightly better ethnic make-up. The fact that there are far more women here than there were has had a very significant impact on that. It is nothing like what it was, but it is nowhere near what it should be. A whistleblowing system that is robust, independent and away from MPs is essential and is severely lacking.

Q30 Dr Midha: I'd like to move on to Members and additional employment. As you are probably aware, there are differing views on this. There are people who might feel that, given being an MP is a full-time role, there is



HOUSE OF COMMONS

no time to engage in additional employment. There is another view that suggests that having an additional role enhances one's ability to deliver the role of an MP. We have talked about medics, vets and lawyers—those sorts of roles—being able to ensure their professional registration by continuing in some respect. Do you think there will ever be consensus on whether MPs should be allowed additional employment? I am staring at Mr Mann, but I am looking at everybody.

John Mann: Could a set of rules be worked up that could work well? I think it could. It is wholly inappropriate for a Member of Parliament, while Parliament is sitting, to be doing another job. The key to a coherent system is when Parliament is sitting. Parliament is sitting today. If I were elsewhere earning money exactly when Parliament is sitting, it would be right and proper for Parliament to ban that. This evening when Parliament is not sitting, I could go and earn money as a magician or something—that is a theoretical example. As long as it is transparent, go and do it.

I have earned a small amount of money for writing a book. I do not see what is wrong with that, as long as it is transparent. There is always a grey area. People might ask, "When did you write it?" or "Did you write it while Parliament was sitting?" Well, there are grey areas of that nature in all professions. You are never going to get rid of grey areas, but writing a set of rules that said, "While Parliament is sitting, you should not be gaining other employment. Do anything outside sitting hours, as long as it is transparent" would work well and be a coherent system.

Q31 **Dr Midha:** May I put a caveat around my question? Perhaps others can comment on the view that an MP's role is not simply about being in this House, and that there is a whole body of work to balance—when one is in the constituency and so on—but I take your point.

John Mann: I had a business when I came in here. Some of the contracts were Government contracts. I inevitably would have misused my position—not calculatedly, but in essence—by having information in works time. Therefore, we got rid of the business. That was the appropriate thing to do.

I do not agree with the idea that there are these special people. It would probably be valuable for a Member of Parliament to go and work on the bins in the summer recess because they had done it before, as they could get back in touch with the real world. There is an idea that certain professions are more in touch and that we won't get them. That is total nonsense. It is just an excuse.

Dr Wollaston: I think that having a degree of outside experience assists the House in many cases, but it is a matter of degree. When people are earning many hundreds of thousands, and taking time away from their constituents and their duties in this House—the trouble is that there is very little guidance about what is reasonable.

I made a personal choice that I would be a full-time MP. Many of my colleagues continue small amounts of medical practice. I would not criticise them for that, because it enables them to keep closely in touch.

As a Member of Parliament, you might only be here for a five-year term, so you could lose your skills and your ability to rejoin the profession later on. I am not critical of colleagues who choose to do that, but it is a matter of degree.

To some extent, the fact that other employment has to be published in the Register of Members' Financial Interests is helpful. At least constituents can see and challenge something if they feel it is excessive. The issue for some people who feel uncomfortable is the degree to which outside work and earnings are perhaps starting to impinge on MPs' abilities fully to represent their constituents.

Mr Jenkin: I think that there is a consensus and there isn't a consensus. The consensus is reflected by the fact that people go on arguing about this, but I think there is a fairly settled view that many Members of Parliament do not consider being a Member of Parliament a full-time job and they do other things in their spare time.

Regulating this as tightly as some suggest—for example, if we say that you can't do things when Parliament is sitting, that assumes that if you do not have outside employment and Parliament is sitting, you are working as a Member of Parliament. Well, I've got no idea what my colleagues are doing while Parliament is sitting. All we know is that they're not sitting in the Chamber or in a Committee all the time. So what constitutes working for Parliament? The special position of MPs—we have no contract of employment and we are accountable to our constituents for the way we conduct ourselves—means that that is left to our judgment, and broadly should be.

Transparency is the key. For example, if you were to spend a great deal of your time adding value to your house by doing it up yourself, nothing would be declarable or accountable, and no added value to your house would be seen as a benefit in kind, but if you write a book and publish it and are paid for that, that has to go on the register. If you are a practising lawyer or a practising GP and earn money from that, it has to go on the register.

There is also the fact that some Members of Parliament have a great deal of private wealth and spend probably quite a lot of time managing their private affairs. Should they not be allowed to do that? Should they somehow be separated from their private wealth, or are you making a system—this is the danger—that actually favours people who have private wealth and discriminates against people who have to live hand to mouth from their MP's salary and allowances?

There is already a very broad problem that quite a lot of wealthier MPs do not claim their expenses because they are worried about the exposure. MPs who have no private wealth do not have the luxury of being able to afford to do that. We can be over-prescriptive. What we want is transparent and clear rules about declarations, rather than trying to prescribe what Members of Parliament actually do.



HOUSE OF COMMONS

- Q32 **Sir Paul Beresford:** To follow on, my feeling is that one of the difficulties is that if you have an outside job, you declare it, but if you are working for an organisation outside and receiving no funding, you do not have to declare it. The last group used the example of CND. If you belong to CND and we have a debate on nuclear issues, you don't have to declare that when you speak. Should that change?

Mr Jenkin: You might be receiving a considerable benefit in kind in terms of the work they are doing for you. Are we really, seriously going to suggest that every bit of help a pressure group gives a Member of Parliament in terms of information on a debate is—

Sir Paul Beresford: No, the other way round.

Mr Jenkin: It is the same problem. We can be far too over-prescriptive. What we want is a system where the public can have more confidence, in that they know what sort of people MPs are.

- Q33 **Sir Paul Beresford:** So transparency and leave it to the voter.

Mr Jenkin: We need more of a conversation about what our values are and how we live those values, so that there is what one might call forward accountability and less recourse to retributive backward accountability—"We don't like what that particular does. The rules should be changed and people should be punished and held to account." That kind of accountability is rather destructive of public trust.

- Q34 **Chair:** Before we move on to the next question—I don't wish to put you on the spot, Sarah, but I was involved in revalidation when I was a lay member of the General Medical Council. When I chaired the Committee that you now chair, there was a practising GP on it who was a colleague of mine—a Labour Member—but his seat probably was not as predictable as mine in terms of its outcome at general elections. He used to run a surgery on, I think, a Tuesday or Wednesday morning. It didn't clash directly with the Committee, but it clashed with other things that this House was doing. Would it be unfair to let him do that so that he could keep up his revalidation and continue to be a doctor if and when he finished as a Member of Parliament?

Dr Wollaston: As I say, it is a matter of degree. There is something to be said for keeping in touch with your profession so that you can represent it better in the House. As you say, it is not certain when you will leave, and people might find that they are here for only a few years. If they have lost their revalidation, they may find it very difficult to re-enter practice. It is reasonable to allow people to keep in touch with their profession, but it is a matter of degree, and I don't know how you would write that into a code of conduct. We are all aware of cases in which the amount of time people spend outside is excessive, but it is very difficult to set that out rigidly.

- Q35 **Mr Grieve:** Just going back to the recommendation made by the Public Administration and Constitutional Affairs Committee, it is suggested that there should be a new set of principles of general behaviour, against which the public could lodge complaints. I think that was in response to



HOUSE OF COMMONS

the question about the general rule that MPs should avoid action that might cause significant damage to the reputation and integrity of the House of Commons, which is an extraordinarily broad concept. I think it was also envisaged that that might be sanctioned by public criticism, rather than any breach of the rules. Do any of you, perhaps starting with you, Bernard, have any view as to how that could be enforced? It is the most general rule of the lot that we have to comply with, and some people would say it is unenforceable.

Mr Jenkin: I would say that it is unenforceable, but it is something we should be talking about more freely and understanding among each other. We should be creating more of a community of understanding in the House of Commons about what it means and how it affects our lives, so that, as a community of colleagues, we help and support each other to comply with it. It is not something for which you can punish somebody; you can punish somebody only if they break a rule.

I come back to the point that the rules that govern what we can and cannot do are not even all written in one place. There are the IPSA rules, the rules of the House and the rules in the code of conduct. There are rules made by the Administration Committee, or whichever Committee it is—I cannot remember—that makes rules about the use of House facilities. There is a very confusing landscape.

The armed forces, for example, have Queen's regulations: all the rules are in one place. The governance of the armed forces is drilled into people and set by the example of the way their leaders conduct themselves. We cannot replicate that, but we somehow have to create an atmosphere in which people look up to good examples of good conduct and ethical behaviour, and we should also have a clear set of rules to punish wilful wrongdoing.

Q36 **Mr Grieve:** In terms of the informal maintenance of standards, is there some particular mechanism that you or the other witnesses would like to see put in place to try to help that to happen?

Mr Jenkin: It really comes with induction and creating more of a culture in the House of Commons. It is about senior Members, or a Committee, providing more leadership. I think this is where the public are losing confidence. I accept what John Mann says—things are far better than they used to be, and IPSA has saved us a huge amount of embarrassment at the mess we were getting into over expenses—but when people enter the House of Commons, there needs to be some kind of leadership, and a proper facilitated discussion among MPs, particularly new MPs, so that people understand some of the challenges they are going to face.

At the moment, you are left on your own to make your own judgments or to ask a friend, and to discover your way through this jungle of public life, which is full of mantraps—person traps, I should say—for the unwary. In a way, the parable of our expenses fiasco in the last decade was where the whole House fell into that trap and was blind. What we want is for Members to become more aware of the dilemmas they face, the choices



HOUSE OF COMMONS

they must make and the consequences that will follow, which have nothing to do with rules but have a lot to do with MPs' individual reputations and the reputation of the House as a whole.

I hope that that answers your question in some form, but I do not have an instant, off-the-shelf mechanism. Maybe it should be in the training. We have so little professional development for Members of Parliament. It is something that the House Service should do with a group of senior Members, and maybe this Committee should be supervising that kind of induction.

Mr Grieve: Thank you.

Q37 **Sir Paul Beresford:** Have you any evidence for this Committee to say that that happened at the beginning of this Parliament or the beginning of the last one? You and I came in before that happened, and you have reflected in your reports.

Mr Jenkin: I appreciate that it is happening more, but may I come back to the way we still operate as a House? I am not harping on your individual case in any sort of judgmental way, Sir Kevin, but to end up with a rule where, if you breach it, it doesn't matter very much and you can carry on being Chairman of the Committee that is overseeing the code of conduct and the rules—I think that leaves people feeling quite confused.

Either the adjudication was wrong—I make no criticism of the Parliamentary Commissioner—or the rule is not quite right, because obviously the consensus was that the behaviour concerned was not really that reprehensible and it was so obviously an inadvertent breach of the rule. We need to separate this out—tease it out—and have a much clearer landscape, in order that we can have a more intelligent conversation.

Dr Wollaston: I have certainly found members of the House staff extremely helpful when I have come across ethical dilemmas and situations. Even when they have not been able to help me directly, they have always been able to signpost me to someone who can. But it has always surprised me that there is so little continuing professional development; you have to actively go out and seek it, and of course the extent to which that is taken up will be variable.

Can I go back to your original point around cultural issues and conduct? To give you an example, there is a real cultural issue in this place around the use of data, and I think that that risks bringing the House into disrepute. The public's trust in the data that they are given is at an all-time low. We hear politicians talking about dismissing the experts, and I think that is a problem. Yet there are no consequences for Members of Parliament who deliberately misuse data or present misleading data. I would like to see something within the code to look at the responsibility of MPs to present data in a way that is honest and open rather than manipulated. We have seen several examples of that in the last few months.

John Mann: I totally disagree. It becomes a political stance. What is manipulated data? One of the problems is that a lot of people are running



HOUSE OF COMMONS

around calling each other liars. I probably get 50 communications a week—not from MPs—calling me a liar. Someone will tweet saying I am a liar, when what they mean is that they disagree. That has become part of the societal culture.

I don't think we can or should be regulating vaguely. Where there are rules and systems in place, something can be done. If an MP makes an anti-Semitic remark and it is brought to my attention, I will write as chair of the all-party group against antisemitism to their party leader. I have done that to all the major parties with more than 10 Members in here, and probably to all parties, actually, over the last 10 years. I have followed that through and, I am glad to say, had action—some of which has never had any oxygen of publicity at all because it has been dealt with appropriately. That is a good system in my view. It is a good system because there is a consensus on the acceptability or unacceptability of certain behaviour.

I had a public political argument with a former MP who was once Mayor of London. There was a petition of 20,000 calling for me to be immediately sacked as a Labour MP and there was another petition, probably even slightly larger now, which calls for me to be given a knighthood for doing so. The general public took very different views and there were some very eminent people in society participating in both petitions. There we are talking about political argument.

The opening line of one of the letters I saw immediately I became an MP, which had been written to one of my constituents—I won't name the author, but it was a former MP—was, "You are a pillock and a prat." It was on House of Commons headed paper. Now, I would not use that terminology to one of my constituents or anyone else's constituents in a letter. It doesn't seem to me that Parliament should be in the business of taking complaints about that kind of thing.

Dr Wollaston: But it's about setting a culture.

John Mann: How is culture set though? In here, there are alleged sexual assaults by current Members of Parliament and nowhere for people to go, or nowhere that they feel confident in going. That is a major issue. The culture of language is exposed by transparency. If I wrote to one of my constituents now—not that I have done—and said, "Dear Sir, You are a pillock and a prat," I can be pretty certain that letter would be on the internet, if not immediately, in 24 hours. Either they will do it or they will find a grandchild who will do it, if they are not internet savvy. The world will make a judgment, probably a very negative judgment on me, on whether that is appropriate language to be using.

The danger is that MPs do not go on the doorstep because they do not want to get into altercations. I was on my high street this weekend and I heard some derogatory comments about your good self, Chair. Your constituents tend to shop in my area. They weren't based on any rational fact that I could see and they were a bit puzzling. It was, you know,



HOUSE OF COMMONS

"Here's someone we can have a go at who isn't here," so rather than having a go at me, they have a go at somebody else.

You get that face-to-face on the doorstep in an area like mine. If I go into certain areas, people will tell me rather brutally what they think: how useless I am, how useless we are, how useless the Government is, how useless the world is—but particularly me, in graphic detail. I respond to that sometimes robustly; I hope politely and robustly. If you try to overly regulate standards of behaviour and language, that leads to a very automaton Parliament, where people hide away and do nothing. I think that is a big danger.

Mr Jenkin: Very briefly, if the suggestion that my Committee has recommended were adopted and the public were able to complain about unethical behaviour, in broad terms, of Members of Parliament, I am sure that the Parliamentary Commissioner for Standards would receive a great many complaints that she would not necessarily take with a great deal of seriousness, but there might be something serious that needs to be discussed with that Member. There would not necessarily be any sanction, but there might be an issue that needs to be explored. I don't think that we should pretend that we should be immune from that kind of conversation. If you were doing any other kind of job where you were employed, that sort of thing would be discussed with you. That is not about threatening Members of Parliament or their independence; it is not even necessarily about publishing something. It is about having the conversation.

Q38 Tommy Sheppard: Leaving to one side the question of external employment, which we have discussed, are there any other aspects of what Members of Parliament do, or ought to do, that you feel should be addressed in the code of conduct and the rules where currently there is silence? If so, do you have any specific suggestions?

John Mann: The one area that is weak is on contact books: Ministers and people who have been Ministers but who are no longer Members of Parliament making use of their contact books to create income and lobby on behalf of paying vested interests—the corporates who are employing them. It seems to me there are some suggestions from the Committee on Standards that look very good in relation to your inquiry. That is a weak link, in my view—the one and only weak link of substance, other than the point about whistleblowers and staffing and how that should be handled, which is separate.

Mr Jenkin: In our answer to your question 11, we recommend a few things. When an MP is confronted with an issue like the possibility of outside employment, what support mechanisms should be in place when they are under public scrutiny, and who can they go and discuss that with—is that clear? If we had our own, more explicit set of public service values, where would they be discussed? How would an MP be supported when they wanted to discuss that? How would MPs be encouraged to discuss that?



HOUSE OF COMMONS

We depend a great deal on the Speaker, and the Speaker takes a great deal upon himself, but we need to think about what support he gets in his role of trying to govern good behaviour in the House? There are a lot of broader governance issues that are lacking, because at the moment we are trying to remediate the reputation of the House of Commons and deal with transgressions of the rules all in one place, and I think that is too confusing.

- Q39 **Chair:** I just want to clear one thing up. John Mann, I talked about confidential whistleblowing and potentially sexual misbehaviour here. How does that fit within the law? These are matters for the law, by and large, and, as you know, the Committee does not deal with the law. If anyone is deemed to have breached the law, that is a matter for the police, not us. So how would that work?

John Mann: To give a theoretical example, if an MP—shall we say of our generation—was to take on an 18-year-old female intern and get them to work into an evening and then be pressing them to return home to their flat at night, that is not a matter of criminality but that would potentially be an issue for whistleblowing to make a complaint. In the cases I am aware of, there is no criminality; otherwise it would be very straightforward: I would be advising, “Go to the police”. Indeed, I would be contemplating whether I should go to the police even though I would be going through a moral dilemma: the individual does not want to, but should I? How do I deal with that? That is a very complex moral dilemma.

The significant issues where things are below the criminal threshold are, from what I have seen and heard, ones to do with behaviour, so they ought to be handled within here. Precisely what is below the criminal threshold ought to be what is looked at.

Chair: We haven’t got much time—we have about six minutes.

- Q40 **Susan Elan Jones:** I am interested in the point about Select Committee Chairs, especially as two of you are Select Committee Chairs. Should the code set different standards of behaviour for them? Are there any particular difficulties for them under the current rules? I would be interested to hear from the two Select Committee Chairs and from John, from his perspective of not being one.

Mr Jenkin: If you compare the rules for Select Committee Chairs with the rules for Ministers, the rules for Select Committee Chairs have been extraordinarily lax. I think the lesson of the Tim Yeo case was that the public took a much dimmer view than our rules and adjudication of that case. It led to a great deal of confusion, but there was also the question of the extent to which Mr Yeo had complied with the letter of the law and the letter of the rules—he certainly had not complied with the spirit of ethical conduct. A court subsequently was very clear that it did not share the view that the House took on the matter. I think that has got to be cleared up.

Where a Select Committee Chair is clearly conflicted by what they are trying to achieve for themselves, that is a real problem, but I do not think that that will necessarily all be addressed in rules. It will be addressed in



HOUSE OF COMMONS

what we expect of each other as colleagues, because we talk about it as much as we have hard and fast rules.

Dr Wollaston: Personally, I do not think that Chairs of Select Committees should have any paid outside employment. They should be scrupulous in maintaining their freedom from any conflicts of interest. The lesson from the recent case with the Chair of the Home Affairs Committee is that they absolutely have to be scrupulous in declaring conflicts of interest before they start an inquiry. It is not about wanting to pry into people's lives, but you cannot chair a Select Committee inquiry on something where you are clearly personally conflicted. That should be absolutely explicit in the rules in my view.

John Mann: I agree with that, but I would add that I also think that there should be a requirement that meetings with outside bodies should be put on a record. To see who the Chair has been meeting would be helpful to everyone, including other members of Select Committees.

- Q41 **Mrs Darcy:** In your opening remarks, John, you mentioned that the internet makes things more complicated. Would the panel find further guidance on the use of social media helpful?

John Mann: In theory, yes, but I do not see how that could be done. I have thought about that quite a lot, and I've done a lot of work in this area with the big internet companies. I do not think you can bring in a separate approach to the internet. I think there needs to be a recognition that the response that an MP might give to a constituent at 11 o'clock at night may be more abrupt than one at 3 o'clock in the afternoon, and vice versa. That is a reality of the modern world.

- Q42 **Mrs Darcy:** Sorry, by social media, I meant Twitter and other forms of digital communication.

John Mann: I wouldn't bring in separate rules or guidance on it. I don't think that is possible.

Dr Wollaston: I agree. I don't think it requires separate guidance. In fact, I think it is a great hazard for many MPs who have found themselves in very hot water from injudicious use of Twitter. It might be helpful for them to have formal training, because we have all seen examples of that.

Chair: They've been taken out of context, presumably.

Mr Jenkin: I think we need to distinguish between guidance that might be given to Members and in support of Members to help them deal with the world as it is and guidance that is attached to rules of behaviour. Social media is part of the fabric of our freedom of speech in modern society. It would be completely inappropriate to suggest that there should be rules about what MPs can or cannot do on social media. I do not think that is what you are intending. I think what you are suggesting is that MPs need a little bit more eyes-open support before they get into some of the situations they get in. Perhaps I can ask whether that figured much in the induction of Members in 2015. It is the sort of thing that I should think

most candidates are already aware of if they have stood for Parliament, even if they have not actually been elected.

Q43 Chair: Sarah, did you want to say something quickly?

Dr Wollaston: I wondered whether you were finishing, because I know the last panel were asked a final point about respect and dignity and I wasn't sure whether you were going to come on to that. There was a point I wanted to make.

Chair: Very quickly.

Dr Wollaston: Just to say that Members of Parliament absolutely should treat their constituents with respect and courtesy, but I would add a rider that sometimes, as an MP, you encounter people who say things that are appallingly racist or homophobic and harass Members of Parliament in the most disgusting way. I think we should also have a duty to call out racism and homophobia and those kinds of behaviours. How you phrase it should allow for Members still to have the flexibility to tell people when their behaviour is wholly unacceptable.

Chair: A balance needs to be struck.

Mr Jenkin: On the question of respect, we have to treat our employees and staff with respect, and I hope the vast majority of Members do. We do kind of treat each other with respect, but that is not the way the public see that we treat each other. If we want to be respected ourselves as an institution, perhaps we need to change the way we visibly respect each other. That is not very evident to the public at the moment.

Chair: May I thank all three of you very much indeed for coming along and helping us with this inquiry into the code of conduct? Something will be on the Floor of the House at some stage.