



Parliamentary Commissioner for Standards

Modernisation Committee

Outside Interests

Introduction

- 1 Paragraph 17 of the Memorandum by the Leader of the House to the inaugural meeting of the Modernisation Committee says, under the heading *Suggested initial priorities*:

“In particular, the Modernisation Committee should maintain the focus on the role of paid advice in Members’ professional lives. It should consider what advantages, if any, outside paid engagements such as media appearances, journalism and speeches furnish to the public, versus the potential conflicts of interest and attention that arise from such paid endeavours. The Modernisation Committee will wish to consult closely with the Parliamentary Commissioner for Standards, who is best placed to advise on the practicability of any further changes to the rules governing Members’ outside interests.”

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- 2 The Leader has subsequently invited me to offer some initial thoughts on this subject by way of advice to the Committee. This note constitutes preliminary advice, and should be treated as no more than an attempt to provide a constructive basis for the Committee's discussions, which I will be very happy to facilitate in any way helpful.

Regulatory principles

- 3 I respectfully agree with the emphasis placed by the Leader in her memorandum that any new rules about outside interests need to be practicable and enforceable, as well as based on clear principles.
- 4 As for all the rules of conduct, policy relating to second jobs and other outside interests held by Members should satisfy the following requirements:
 - (a) it should be based on logical principles;
 - (b) it should derive from, relate to, or at least be fully consistent with, the principles of public life (*the Nolan Principles*) which expressly underpin the Code of Conduct¹;

¹ The Code of Conduct together with the Guide to the Rules relating to the Conduct of Members, HC 1083.



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- (c) it should be capable of being articulated in a clear and simple form, of being readily understood and appreciated by everyone (including Members, the staff, potential employers, and the wider public); and
- (d) it should be capable of being implemented robustly and effectively.

Starting point – full-time MPs

- 5 The Committee may feel that the following principles are an appropriate starting point for articulating policy in this matter:—
- (1) Members of Parliament are appointed and paid² on the equivalent of a full-time employment basis (while they are, in a constitutional sense, office-holders and not employees).
 - (2) The consequent expectation of the public is that Members should be sufficiently remunerated by their salary and should not need to undertake outside employment purely for financial reasons.
 - (3) The public further expects that Members will give their full professional attention to their activities as Members.

² As determined by IPSA in accordance with their statutory responsibilities.



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Risks and dangers of second jobs

- 6 The Committee may feel that the principal risks and dangers of second jobs are that they—
 - (a) can distract Members from their parliamentary duties and responsibilities (which the Leader has described as creating a “conflict of attention”);
 - (b) can create conflicts of interest for Members, particularly where they interact with the development of public policy;
 - (c) can reasonably be perceived as creating conflicts of attention or of interest whether they do or not, which creates its own reputational risk; and
 - (d) can be perceived as giving an unfair advantage to professional or business organisations that are able to secure the paid services of Members.

- 7 The issue underlying all these concerns is the importance of building and maintaining trust in politicians on the part of the public in general, resting on confidence that politicians are seeking to serve the public interest and not their own.



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Advantages of outside interests

- 8 The Committee may feel that policy and rules on outside interests should recognise that some kinds of paid outside interests can be helpful for the House and can advance the public interest.
- 9 In particular, the Committee may feel that—
 - (a) Members with continuing practical experience outside Parliament may add significant enhanced value to proceedings of the House, both by the content of their practical contributions and by enhancing the actual and perceived authority of the House;
 - (b) it is an important part of the House’s commitment to diversity and equality of opportunity that prospective Members do not feel that they would be compelled permanently to abandon a profession or business on which they are dependent for their livelihood, and that it is therefore desirable in principle to facilitate Members undertaking sufficient professional or commercial activity to preserve their subsequent ability to rejoin their profession or resume their business (including through maintaining licensing or meeting professional development requirements); and
 - (c) certain remunerated opportunities may be a legitimate and helpful part of a Member’s activities, for example where they provide a Member with an opportunity to raise public political awareness



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generally or by explaining policy matters to a wider public audience than might be reached through parliamentary business alone.³

New prohibition

- 10 Taking the principles and issues set out above in the round, the Committee may wish to recommend to the House that new rules in relation to outside interests should be incorporated into the Code of Conduct and the Guide to the Rules relating to the Conduct of Members.
- 11 Any new rules relating to outside interests could be implemented in the form of an additional prohibition (possibly similar in form to the existing limited prohibition in Rule 9 of the Code and Chapter 4 of the Guide to the Rules relating to the Conduct of Members⁴) preventing Members from accepting any paid employment or engagement outside Parliament.

Absolute or qualified prohibition

- 12 If the Committee were attracted to the idea of recommending to the House the introduction of a new prohibition on paid outside interests, the

³ This is, of course, subject to the rules about paid lobbying in Chapter 3 of the Guide and to the conventions on making policy announcements to Parliament first; see also my specific observations below about media opportunities below and about donating remuneration to charity.

⁴ In the February 2023 versions, Rule 9 of the Code of Conduct and Chapter 4 of the Guide to the Rules provide that: “Members must not provide, or agree to provide, paid parliamentary advice, or agree to undertake services as a Parliamentary strategist, adviser or consultant.”; on 25 July 2024 the House determined to amend Chapter 4 to remove two existing exceptions, for advice on public policy and current affairs and for advice “in general terms about how Parliament works”.



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question would arise whether that prohibition should be absolute or subject to specified exceptions.

- 13 Should the House decide to enact an absolute prohibition on Members accepting any remunerated employment or other arrangements, without any exceptions, I believe that would be a practicable and enforceable policy. It would certainly satisfy the regulatory requirements of clarity and certainty.
- 14 The Committee might prefer, however, to recognise the balance of risks and advantages discussed above by qualifying the prohibition with certain limited exceptions. In such a case, the Committee might recommend that those exceptions should be cast by reference to a risk-benefit analysis, so as to maximise the potential advantages that could accrue to the House from having Members undertaking certain other additional paid interests subject to conditions that minimise the actual and perceived risks.

Possible principles for qualified prohibition

- 15 In accordance with the regulatory principles set out in paragraph 4 above, if the Committee were attracted to recommending a qualified prohibition it would probably wish to articulate the principles underpinning any exceptions, both to enhance clarity and certainty and to enable principles-based implementation of the policy.



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16 For example, the Committee might choose to recommend that the following principles should be reflected in any list or set of exceptions:—

- (1) That Members are expected not to accept offers of paid outside interests that might detract, or appear to detract, from their ability to pay full attention to their parliamentary responsibilities.
- (2) That Members are expected not to accept offers of paid outside interests that might create, or appear to create, actual or potential conflicts of interest of the kind mentioned in Rule 2 of the Code⁵, or that are for any other reason generally incompatible with the Code.
- (3) That Members are expected not to accept offers of paid outside interests that are made, or that a reasonable observer might think are being made, primarily because of their membership of the House (whether because the offeror was attempting to buy influence, to make lucrative connections, to take advantage of inside knowledge, or for any other reason not connected with a particular Member's professional or commercial qualifications or experience).⁶

⁵ Rule 2: Members must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

⁶ This principle is subjective, of course, in a way similar to the Relevance Test in paragraph 6 of Chapter 2 of the Guide – *Declaration of Members' interests*. I discuss below mechanisms for the implementation of a subjective test of this kind.



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Listing permitted and prohibited occupations

- 17 A list defining “acceptable” and “unacceptable” outside interests has obvious attractions in terms of clarity and certainty and, therefore, enforceability and practicability.
- 18 The Committee may feel that it is possible to identify certain occupations which of their nature are in principle unexceptionable (subject to the considerations in paragraph 16 above). For example: teaching; nursing; human and veterinary medicine; and pharmaceutical practice.
- 19 The Committee may also feel that it is possible to identify certain occupations which of their nature are in principle incompatible with membership, in addition to those presently listed in Rule 9 of the Code and Chapter 4 of the Guide. For example, the Committee might decide to recommend to the House that employment as the presenter of a news or commentary programme on broadcast media was inherently incompatible with membership of the House (and I discuss this further below); or the Committee might decide that service as a regional mayor or the chair of a local authority required a degree of attention that was incompatible with service as a Member.
- 20 The Committee may, however, feel that it would be invidious to embody in the Code, or even in guidance, lists that appear to tell Members what occupations are acceptable and unacceptable for them to pursue.



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21 In any event, a listing approach is unlikely to be the whole answer, for a number of reasons:—

- (1) A list that purported to be comprehensive would be likely to lead to uncertainties and anomalies, particularly around definitions.
- (2) Listing permitted and prohibited jobs also fails to address the fact that acceptability of second jobs at least in some cases could be seen to depend as much on the circumstances and conditions (hours worked, nature of employer, nature of clients, and so on) as on the description or classification of the job itself.⁷
- (3) The issue also arises of the extent to which the policy should focus exclusively on arrangements that are “jobs” in any natural sense: certainly, addressing only employed and freelance occupations could be seen as inconsistent treatment in failing to recognise the potential for equal conflicts of attention and interest arising from activities outside “work” (such as writing books, attending speaking engagements in the UK or abroad) and from voluntary roles, all of which can pose their own conflicts of attention and interest.

⁷ For general exposition of the issues in this regard see paras.181-188 of the Committee on Standards Review of the Code of Conduct: Proposals for Consultation, Fourth Report of Session 2021–22 (HC 270) 29 November 2021, paras.172-180; see also for general policy development in this area, the Committee on Standards in Public Life, July 2018 Report on MPs’ Outside Interests.



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22 Overall, the Committee may prefer to reserve at this point for further consideration whether lists can play a helpful part in any eventual policy that the Committee might recommend in this area, whether as examples in guidance or in the form of presumptions of compatibility subject to specified considerations as to timing and conditions of occupation.

Implementation

23 The emphasis placed by the Leader of the House on the importance of the practicability of any new rules leads me to offer a few thoughts about possible methods of effective implementation of any new prohibition, whether absolute or qualified.

24 The present emphasis in the Code and Guide is on implementation through a combination of self-regulation and transparency, with enforcement by way of sanctions imposed by the House reserved for cases of breach established following investigation by me and decision by the Committee on Standards⁸.

25 My impression is that an approach of this kind is well-suited to the regulatory context of the House, and the Committee may feel that, as with the existing Chapter 4 of the Guide dealing with paid outside interests, transparency and self-regulation would be effective as central planks of any implementation policy.

⁸ See, generally, Chapters 3 and 4 of the Procedural Protocol in respect of the Code of Conduct.



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26 In particular, the Committee may wish to consider the efficacy of the mechanism in paragraphs 3 and 4 of Chapter 4 of the Guide for the implementation of the prohibition in Rule 9 of the Code and paragraphs 1 and 2 of Chapter 4. The essence of that mechanism is that a Member who wishes to take on employment with an outside body is required to obtain a written contract or written statement of particulars detailing their duties and attesting to compliance with the rules. Paragraph 3 requires Members to make that contract or statement available to me on request, but does not require it to be lodged routinely with the Registrar.

27 At the request of the Committee on Standards in its report *New Code of Conduct and Guide to the Rules: Promoting Appropriate Values, Attitudes and Behaviour in Parliament*⁹, in January 2023 I issued a template for a contract or statement that would satisfy paragraph 3 of Chapter 4. I conducted a monitoring exercise this year in accordance with paragraph 3 of Chapter 4, and can share thoughts with the Committee about the practicability and effectiveness of this combination of transparency and self-regulation if the Committee pursues this line of policy.

28 Building on this approach, were the Committee minded to recommend the enactment of an absolute prohibition on paid outside interests, it might similarly recommend the introduction of a requirement to obtain

⁹ HC 227; the template was revised in PCS/AN/2023.01 (Rev.1) on 29 July 2024 to reflect the changes of the Code agreed by the House on 25 July 2024.



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a written statement in relation to unpaid outside interests of particular kinds verifying that they are unpaid and therefore not in breach of the prohibition.

29 Were the Committee inclined to recommend the introduction of a qualified prohibition, it might choose to recommend similar reliance on a contract or statement demonstrating satisfaction of the conditions surrounding any exception, where a Member undertook relevant employment. Were I asked to do so by the Committee on Standards in due course, I am confident that it would be practicable to produce a template similar to that required by paragraph 3 of Chapter 4, establishing that the conditions of any exception are met.

30 Even if the conditions were to any extent subjective, a similar approach ought to be practicable: for example, if Members were required to demonstrate that they were satisfied that employment of a particular kind would not be reasonably thought by others to create likely conflicts of interest or to have been offered primarily by reason of the Member's capacity as such, the statement required by the equivalent of paragraph 3 might require the Member to record the reasons for the offer and acceptance, and a statement of non-conflict, similar to the requirement of paragraph 4 of Chapter 4 of the Guide.

31 (This self-regulatory approach is preceded in the Guide for subjective conditions: the present rules on declaration of interests in Chapter 2 of the Guide hinge on an objective test of relevance – “whether those



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interests might reasonably be thought by others to influence his or her actions or words as a Member” – which is left to Members to apply for themselves in the first instance.)

32 Similarly, if the House eventually decided on exemptions that were limited to maximum committed hours per week, or guidelines as to the number of hours that should not be exceeded, a template contractual provision could provide an opportunity for Members to record in or by reference to their contract of employment that the requirements of maximum hours were complied with, or that the guidance as to maximum hours had been reflected.

33 If the Committee were considering an approach along these lines, it would also wish to consider whether the self-assessment exercise carried out by Members should be required to be published, for maximum transparency, or whether it should be left to Members to determine whether and how to publish it.

Special considerations: media appearances

34 The general considerations set out above apply to paid appearances on broadcast media and publications in print and online media as to other paid outside interests. But the Committee may believe that media engagements raise special additional issues that should be taken into consideration in framing any policy on second jobs.



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35 In particular, although the question of balance within a particular broadcast media is a matter for the law of broadcasting and falls to be implemented by Ofcom, the Committee may feel that the House should express its own views as to the propriety of Members hosting news shows or the like, by means of an absolute or qualified prohibition in the Code and Guide. Such a prohibition would, if recommended by the Committee, be an expression of the House's own self-regulatory opinion as to what Members should and should not do, and would not in any sense undermine or contradict the legal requirements of impartiality on particular broadcasting services.

36 More generally, the Committee may wish to consider whether certain kinds of media appearance are to be deprecated in the sense of—

- (a) conferring an unfair advantage on particular Members, or
- (b) being otherwise fundamentally incompatible with the responsibilities of a Member (including as to commitment to the principle of objectivity, and as to safeguarding the reputation of the House¹⁰).

37 Where Members appear as guests on media shows, their views are likely to be balanced by other guests and are, in any event, presented by the host as Members' personal views. Where the Member is the host, however,

¹⁰ For example, the involvement of Members in certain kinds of "reality television" show has been controversial with some sectors of the public on reputational grounds.



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the Committee may feel that there is a risk of the Member appearing to speak with a voice of authority, without being subject to any instant accountability or balancing mechanism, that distorts the balance of the presentation of political argument.

38 Similarly in relation to print media, or its online equivalents, the Committee may see a relevant difference between writing an opinion piece presented as such, and writing an anonymous editorial presented with the apparent authority of the newspaper or equivalent itself.

39 The Committee will, of course, note that at present “media appearances, journalism, books, public lectures and speeches” are an express exception to the prohibition on paid parliamentary advice in Chapter 4 of the Guide.

Voluntary or unremunerated occupations and interests

40 As noted above, voluntary or unremunerated occupations and interests can pose the same kind of risks of conflict of attention for a Member as remunerated interests; nor are they incapable of raising issues of conflict of interest (as illustrated by the breadth of the requirements for registration of unpaid roles under Category 8 in Chapter 1 of the Guide – *Miscellaneous*).

41 The Committee may feel that it would be important, if prohibiting remunerative outside interests on grounds of conflict of interest or attention, to consider whether similar prohibitions, or conditional



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restrictions, should be applied to at least some kinds of unpaid outside interests, while being careful to avoid appearing to interfere with what Members might choose to do in their purely private and personal lives¹¹ by way of leisure or other kinds of occupation.

Donating remuneration to charity

42 One possible objection to paid outside interests is that Members are remunerated on a full-time basis and should not see the need to accept paid opportunities purely for the purposes of supplementing their income (see paragraph 5(2) above).

43 If the Committee fashioned its policy on second jobs to any extent around that principle, it might choose to consider whether commitment by a Member to donate their remuneration to charity could render an otherwise prohibited occupation permitted.

44 Other considerations apart, when a Member chooses to commit themselves to donating remuneration to charity (other than by way of a tax deductible contribution that confers a benefit on the Member, or as part of some other arrangement that benefits the Member), the Committee may see that as an effective indication that the Member has accepted the opportunity because she or he genuinely believes that it is a helpful adjunct to their parliamentary activities – as, for example, where

¹¹ The Code of Conduct “does not seek to regulate what Members do in their purely private and personal lives” – Section B.



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they write an opinion piece for a newspaper which enables them to reach a wider audience than might otherwise be the case.¹²

45 Whether the Committee would wish to extend this principle to requiring Members to agree to donate receipts from outside interests to charity is, however, a separate matter. The Committee may well feel that this is something better left to the judgement of Members, and as a factor that they can deploy individually as part of the transparency process described above, where they wish to demonstrate that their motivation in accepting an opportunity is not financial (along with demonstrating the absence of a conflict of attention).

Conclusion

46 I stand ready to discuss these matters with the Committee at its convenience, and to provide any additional subsequent advice that would be helpful.

Daniel Greenberg CB

9 October 2024

¹² On registration implications of donation to charity see Advice Note PCS/AN/2023.4 (*Registration of charitable donations*).