

## Written evidence submitted by Transparency International UK

### SUMMARY

Recent political scandals have led the public to question the behaviour and standards of their elected representatives. **This consultation is a timely opportunity to reform the current rules for the better, which could help restore public trust in our democratic institutions and prevent future incident.** It is vital that any changes to the rules should be comprehensible to both the public and to MPs. This will ensure that the public are able hold politicians accountable to the rules and so that MPs can easily put them into practice.

We welcome many of the proposals in the Committee's initial report and recognise that they will go some way toward addressing concerns about the probity of our elected officials. We also highlight additional areas that the Committee may wish to consider in light of the evidence provided in this submission.

We will primarily address proposals concerning the Code of Conduct's rules. In particular, we will look at proposals clarifying 1) the scope of the code (section 4); and 2) the registration and

#### EXISTING PROPOSALS WE SUPPORT:

- Including gifts, benefits and hospitality received by a minister in the Register of Member's Financial Interests (RMFI).
- Greater transparency and accessibility of the RMFI and for the House of Commons Commission to commit to a timetable to achieve this.
- A ban on MPs providing paid parliamentary advice, consultancy or strategy services, and a tighter ban on paid advocacy.

#### PROPOSALS THE COMMITTEE MAY WISH TO RECONSIDER OR ADAPT:

- Abolishing the requirement to register family members engaged in lobbying.
- The amalgamation of categories distinguishing between UK and non-UK sources of gifts, benefits and hospitality.

#### ADDITIONAL PROPOSALS WE RECOMMEND:

- Parliamentarians should be prohibited from accepting paid foreign travel costing over £500 other than from prescribed organisations to further counter potential foreign influence in our democratic system.
- The 'safe harbour' provision should be clear that it does not apply if MPs have solicited advice under false pretences.
- MPs should be required to seek prior approval from an independent body, such as the Commissioner for Standards, before continuing or taking on any new second jobs.
- We support a rebuttable presumption that MPs spend no more than 5-10 hours per week on additional jobs outside Parliament, across all roles, with exemptions for roles that require the maintenance of professional registrations, political activity or providing an essential public service, such as army reservists.

declaration of interests, and the paid advocacy rules (section 6).

### SCOPE OF THE CODE AND WHAT CAN BE INVESTIGATED

### ***Reporting gifts, benefits and hospitality received by ministers in the Register of Members' Financial Interests (RMFI)***

**We support the Committee's proposal (paragraph 96, 137-9) that gifts, benefits and hospitality received by ministers should form part of the Register of Members' Financial Interests (RMFI).** This would address the perverse situation whereby ministers are subject to lower transparency requirements than their backbench peers, and avoid confusion over their reporting obligations.

As it stands, ministers have less onerous demands on the transparency of their interests than MPs, which seems counterintuitive; it stands to reason that those with more power should be subject to a higher standard of disclosure and accountability. Items registered under the MPs' code are published every fortnight, whereas similar interests for ministers are only required to be published every quarter, do not include monetary values, and are subject to the government's communication grid, so are often published late.<sup>1</sup> At the time of submission, for example, the Foreign, Commonwealth and Development Office (FCDO) has only published this transparency data up to December 2020.<sup>2</sup>

Recent events have shown that the interplay between the two rules is also a cause for confusion that reduces transparency and accountability. For example, the Prime Minister registered a holiday to the Caribbean in the MP's register of financial interests, but not a holiday to Spain, despite registering benefits from Heathrow Airport as part of the latter vacation in the RMFI.<sup>3</sup>

The public should be able to see parliamentarians' interests clearly in one place and not need an in-depth knowledge of the complex interplay between the MP and ministerial codes to access this information. Departments should also improve the timeliness of the publication of ministerial transparency disclosures by releasing this information monthly, as proposed by the Committee on Standards and Public Life (CSPL).<sup>45</sup>

## **RESPONSES TO PROPOSALS UNDER SECTION 6 'REGISTRATION, DECLARATION AND PAID ADVOCACY'**

### ***Gifts, benefits and hospitality from UK sources; visits from outside the UK; and gifts and benefits from sources outside the UK***

We respectfully caution against the Committee's proposal to amalgamate categories 3, 4 and 5 in the RMFI entirely (paragraph 120). Keeping track of money of foreign provenance is important to understand how overseas actors may be interacting with, and potentially influencing, our democratic system. This forms the rationale for the ban on donations from abroad to parliamentarians under the Political Parties, Elections and Referendums Act 2000 (PPERA).

**While we are not opposed entirely to merging categories 3, 4, and 5, MPs should still have to indicate if the money is of foreign provenance so it is easily identifiable in the register.**

To further counter potential foreign influence, it is imperative that when parliamentarians undertake engagements overseas their independence is beyond question.<sup>6</sup> At present, there is a

<sup>1</sup> UK government, *Ministerial code*, p.19 paragraph 7.24

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf)

<sup>2</sup> Unlike other departments, the FCDO should have published data covering January –September 2021. The FCDO was due to publish this data in three instances with other departments: July 2021, October 2021 and January 2021.

<sup>3</sup> <https://www.thetimes.co.uk/article/boris-johnson-accepted-1-800-gift-from-heathrow-while-travelling-to-malaga-djn8dldmk>

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1029944/Upholding\\_Standards\\_in\\_Public\\_Life\\_-\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029944/Upholding_Standards_in_Public_Life_-_Web_Accessible.pdf)

<sup>5</sup> The Boardman review also stated that there should be "more frequent returns" than the current, quarterly schedule.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1018176/A\\_report\\_by\\_Nigel\\_Boardman\\_into\\_the\\_Development\\_and\\_Use\\_of\\_Supply\\_Chain\\_Finance\\_and\\_associated\\_schemes\\_related\\_to\\_Greensill\\_Capital\\_in\\_Government\\_-\\_Recommendations\\_and\\_Suggestions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018176/A_report_by_Nigel_Boardman_into_the_Development_and_Use_of_Supply_Chain_Finance_and_associated_schemes_related_to_Greensill_Capital_in_Government_-_Recommendations_and_Suggestions.pdf)

<sup>6</sup> See Transparency International UK, *In whose interest* (July 2018) for examples and analysis [https://www.transparency.org.uk/sites/default/files/pdf/publications/In\\_Whose\\_Interest\\_WEB3.pdf](https://www.transparency.org.uk/sites/default/files/pdf/publications/In_Whose_Interest_WEB3.pdf)

clear risk that overseas trips sponsored either directly or indirectly by corrupt and repressive regimes may present the perception or reality that parliamentarians' judgement and actions are influenced by the intent of their hosts. The example of Ian Paisley Jr MP's breach of the parliamentary code provides a vivid case in point.<sup>7</sup>

There are controls on the sources of donations and loans to political parties and politicians to prevent foreign interference in our democracy. A similar approach should be applied to those funding overseas visits. **We recommend parliamentarians be prohibited from accepting paid foreign travel costing over £500 other than from prescribed organisations.** Prescribed organisations should be:

- acting in the UK national interest;
- those of which the UK or UK Parliament is a full member, for example, the Inter-Parliamentary Union;
- or an organisation that would otherwise be sufficiently regulated to provide this safeguard, for example political parties.

### ***Family members engaged in lobbying***

**We respectfully caution against the proposal to scrap this category (paragraph 125).** We note the Committee's reasoning that this category is infrequently used, however there are at least ten entries for this category within the register for 31 January 2022, which is not insubstantial. This category also does not include close friends or associates of MPs, which if included would likely increase this number considerably.

Most importantly, **the conflict of interests these relationships can present remain significant regardless as to how widespread they are held.** For example, were an MP's partner to have clients with interests relating to their brief on a parliamentary committee, there would be a clear risk of privileged information passing, unintentionally or otherwise, between the two in private. We would also like to suggest that removing this category is unlikely to deter journalists and others from identifying these relationships, and may indeed encourage the view that such an omission is as a deliberate attempt to hide something malign, whether or not that is the case.

### ***Accessibility of the Register***

**We welcome the Committee's comments on the need for the RMFI to be more accessible and digitised, and support its proposal to ensure that the House of Commons Commission make a firm commitment to this work and to set a timetable for when it can be achieved (paragraph 142).**

As we outlined in previous evidence given to the Committee, the current RMFI is not easily searchable or analysable. The data is published as PDFs, which makes any analysis incredibly time-consuming. In 2017, Transparency International UK spent a significant amount of time working with the Parliamentary Digital Service (PDS) to create the framework for a system that would help make MPs' financial interests more accessible and analysable for the public.

We also shared in our submission to the Committee how a new approach to registering MPs' interests could work in practice.<sup>8</sup> Transparency International UK is available to support PDS and other delivery partners in moving this project forward.

### ***Paid Advocacy***

<sup>7</sup> Committee on Standards, *Ian Paisley Jnr*, <https://publications.parliament.uk/pa/cm201719/cmselect/cmstandards/1397/139702.htm> [Accessed 4 February 2022]

<sup>8</sup> <https://committees.parliament.uk/writtenevidence/22940/pdf/>

**We welcome the proposal (paragraph 168) that MPs should obtain a contract for any outside employment, that this contract outlines what they will be doing, and that it explicitly states that MPs will not undertake any lobbying or provide advice that would be in breach of the Code.** This would remind MPs of the ban on paid advocacy, deter non-compliance, and set a clear contractual expectation with employers that elected representatives cannot be hired as lobbyists.

**We also strongly support the proposal (paragraph 169) for the lobbying rules to be tightened** so that a Member who has a live financial interest is prevented from both initiating and participating in proceedings or approaches to ministers or officials that would confer a benefit, not just an exclusive benefit. This would clarify what constitutes lobbying and remove the current loophole.

**We broadly support the proposed safe harbour provision (paragraph 171) where a Member is not in breach of the rules for an action taken in which they have sought and followed the advice of the Registrar.** This could provide a strong incentive for MPs to seek advice when they are in doubt about the scope of the rules, which should help to avoid instances of inadvertent non-compliance due to a lack of understanding of the Code of Conduct.<sup>9</sup> The Committee proposes that this would only apply when action is taken in relation to advice that has been sought from the Registrar of Members' Interests or similar officers, and that the Member provided 'adequate information' for this advice. **We assume this would mean that advice sought on false pretences would not be subject to safe harbour, however we propose that it is worth stating this explicitly in the rules for avoidance of doubt.**<sup>10</sup>

We note that a safe harbour provision would have the effect of giving the Registrar and their staff the power to define the scope of the rules through advice, which would be a significant shift in responsibilities. Currently, the boundaries of the Code are outlined through advice and guidance, but determined in practice through investigations by the Commissioner for Standards and consideration by the Committee for Standards. We propose that careful consideration should be given to the resource implications of this change and how this may change the scope of the rules in practice.

### ***Paid parliamentary advice or consultancy***

**We strongly support the Committee's recommendation to ban elected members from providing paid parliamentary advice, consultancy or strategy services (paragraph 179).**

We have long argued that these roles jeopardise the integrity of Parliament as they give rise to the perception that MPs are profiting from their prestigious role as elected representatives.<sup>11</sup> As we highlighted in our 2020 submission, introducing this ban would bring the House of Commons in line with the Scottish Parliament, National Assembly of Wales and the House of Lords.<sup>12</sup>

The Committee recommends that the Code follows the wording used in the House of Lords. The Code of Conduct for the House of Lords and accompanying guidance states that:

*"The prohibition from accepting payment in return for parliamentary advice means that members may not act as paid parliamentary consultants, advising outside organisations or persons on process, for example how they may lobby or otherwise influence the work of Parliament. The following is not parliamentary advice:*

<sup>9</sup> E.g. The Commissioner states that, had David Morris presented the relevant information to House officials and sought their advice, his breach of the rules would have been avoided as the Registrar would have advised him that his Topical Question would likely constitute a breach of the paid advocacy

rule. [https://publications.parliament.uk/pa/cm5801/cmselect/cmstandards/771/77103.htm#\\_idTextAnchor005](https://publications.parliament.uk/pa/cm5801/cmselect/cmstandards/771/77103.htm#_idTextAnchor005)

<sup>10</sup> See the case of Lord Blencartha's employment contract with the Cayman Islands and the Commissioner's two investigations. <https://publications.parliament.uk/pa/ld201415/ldselect/ldprivi/21/2102.htm>

<sup>11</sup> See our report 'Accountable Influence' (2015) for our research which found that during one year alone, 73 MPs – over 10 per cent of the Commons – had some form of external advisory role between 2014 and 2015.

[https://www.transparency.org.uk/sites/default/files/pdf/publications/Accountable\\_Influence\\_Bringing\\_Lobbying\\_out\\_of\\_the\\_Shadows.pdf](https://www.transparency.org.uk/sites/default/files/pdf/publications/Accountable_Influence_Bringing_Lobbying_out_of_the_Shadows.pdf)

<sup>12</sup> <https://committees.parliament.uk/writtenevidence/13062/pdf/>

- *advice on public policy and current affairs;*
- *advice in general terms about how Parliament works; and*
- *media appearances, journalism, books, public lectures and speeches.”*

We ask that the Committee clarify whether it intends for advice on government affairs to be exempt from this ban. Although we recognise that there is some interplay in this case between the House of Commons’ rules and those of the Advisory Committee on Business Appointments (ACOBA), we would suggest that parliamentarians are often well-connected to government ministers – particularly in their own political parties – and that providing advice about government for payment may therefore constitute profit gained through insider knowledge. We also question if the same exclusions will apply in the House of Commons and caution against including the current wording concerning ‘advice on public policy and current affairs’, because this could potentially prove to be a loophole that still leaves the door open to Members advising on how to influence the House.

We think adopting similar wording from Section 5 of the Scottish Code of Conduct for MSP’s would offer a more robust and clear ban on providing services on how to influence the House.<sup>13</sup> The Institute for Government (IfG) highlight that the wording used by the Scottish Parliament and the Senedd, which are very similar, has proven to be clear and effective: in “neither Scotland or Wales have any complaints been received about potential breaches, let alone upheld”.<sup>14</sup>

**To remove any grey areas about which roles and activities this ban would apply to, we recommend that MPs should be required to seek prior approval from an independent body, such as the Commissioner for Standards, before continuing or taking on any new second jobs.** This would necessarily involve Members providing a copy of their contractual arrangements, including anti-lobbying clauses as proposed above, before undertaking any new role, or continuing a current one when entering into Parliament.

#### ***“Reasonable limits” on Members’ outside activities***

It is promising that the Government proposed an amendment to an Opposition Day motion recommending that the Commons adopt the Committee on Standards and Public Life’s (CSPL’s) proposal to place ‘reasonable limits’ on the time that MPs can spend on outside interests. We also welcome the Standards Committee’s offer to accept comments on this (paragraph 192).

Recent media stories about MPs’ second jobs gave rise to dissatisfaction with the current arrangements amongst the general population. Although having a second job is not against the rules, cases of MPs conducting their parliamentary business from abroad due to the obligations of their additional jobs left many feeling dissatisfied with the current system, and disappointed with their elected officials.<sup>15</sup>

The first principle surrounding any outside interest is that it should not pose a conflict of interest. This is largely prevented in the rules surrounding paid advocacy, and would be further mitigated with the proposals above.

Additionally, while it would be inappropriate to define exactly what the role of an MP is or for them to have any prescribed ‘job description’, it is reasonable to expect that their duties to the House and constituency are their main priority. When elected officials spend a substantial amount of time on an outside interest, this does not give the impression that their first priority is their public duty.

<sup>13</sup> In particular that Members “should not accept any paid work to provide services as a Parliamentary strategist, adviser or consultant, for example, advising on Parliamentary affairs or on how to influence the Parliament and its members.”

<https://www.parliament.scot/msps/code-of-conduct/section-5-lobbying-and-access-to-msps#topOfNav>

<sup>14</sup> Institute for Government, 2021: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/mp-second-jobs.pdf>

<sup>15</sup> <https://www.thetimes.co.uk/article/the-times-view-on-sir-geoffrey-coxs-double-role-as-an-mp-and-barrister-coxs-bazaar-hlz0qd862>

Some responses to the criticisms of second jobs is that citizens can vote them out at the next election. Elections only happen every four to five years, however, and it is unlikely that MPs will explicitly campaign for a mandate to hold these interests during election time. Similarly, this does not address situations where outside employment is gained shortly after an MP is elected.

**We support a rebuttable presumption<sup>16</sup> based on a time limit to provide clarity and reassure the public that their elected representatives primarily work for them. This time limit could be between 5-10 hours a week, across all roles, and could be subject to strict exemptions.<sup>17</sup>** Exemptions for exceeding this time limit should only be for:

- 1) maintaining a professional registration, or
- 2) political activity or providing an essential public service.

The former would include medical qualifications and the latter would include army reservist duties, jury service or lifeboat duties. It would be for the Commissioner to determine if these criteria were met on a case-by-case basis.

*10 February 2022*

## ABOUT TRANSPARENCY INTERNATIONAL UK

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

Transparency International UK (TI-UK) is the UK chapter of TI. We raise awareness about corruption; advocate legal and regulatory reform at national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise in the UK. We are independent, non-political, and base our advocacy on robust research.

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<sup>16</sup> Similar to the CSPL's (2021) suggestion that the "House set an indicative limit of hours and remuneration, while framing those limits as a rebuttable presumption."

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1029944/Upholding\\_Standards\\_in\\_Public\\_Life\\_-\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029944/Upholding_Standards_in_Public_Life_-_Web_Accessible.pdf)

<sup>17</sup> Using the investigative work done by The Times to inform our recommendations <https://www.thetimes.co.uk/article/nearly-140-mps-have-other-jobs-amid-fears-of-part-time-parliament-xpl9h99jm>