

Written evidence submitted by Dr Jonathan Rose, Associate Professor in Politics, De Montfort University (COD0012)

I am submitting evidence in a personal capacity as an academic who specialises in issues of integrity in public life, particularly in the context of the UK. I gave oral evidence to the Committee on Standards in 2016 as part of its investigation into the Code of Conduct at that time. My doctorate (2008-2012) was partially funded by the Committee on Standards in Public Life, and during that time I work extensively with the Committee on understanding the UK public's attitudes to standards in public life.

a) What values, attitudes and behaviours should the Code of Conduct for MPs seek to encourage or discourage?

Fundamentally, the Code of Conduct should seek to encourage *integrity* among members and in so doing should discourage members acting based on personal interest or individual financial concerns. By integrity, I mean the sense that each member is individually sincerely trying to achieve what they honestly believe is in the best interests of the country as a whole and their constituents in particular. This understanding of integrity is arguably closer in conceptualisation to that used by the Civil Service Code, which defines integrity as “putting the obligations of public service above your own personal interests,”¹ than the definition of integrity from the Seven Principles of Public Life (the ‘Nolan Principles’) as set out in the Code of Conduct, namely; “Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.”²

Discouraging specific (negative) behaviours should always be secondary to the task of encouraging the highest possible standards of integrity. There are two key reasons for this focus. Firstly, creating a ‘blacklist’ of prohibited behaviours will fail because the ways in which a member could in theory put their own interests above the obligation of public service are too numerous to elaborate in any serious way. Secondly, a focus on strict compliance-based rules encourages a mindset that everything which is not prohibited is allowed, while also encouraging members to downplay their own ethical understanding of public service in pursuit of strict adherence to the rules.³ At present the Code of Conduct is explicitly conceptualised in the guide as “a set of rules to which Members must adhere,”⁴ which when combined with the very long and seemingly prescriptive guidance is likely to lead members to having a singular focus on compliance with the letter of rules without considering broader principles.

¹The Civil Service code (2015), Available online: <https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code>

² The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members (2019), Available online: <https://publications.parliament.uk/pa/cm201719/cmcode/1882/1882.pdf>

³ For academic discussions of this problem, see Heywood, P. M., & Rose, J. (2015). “Curbing corruption or promoting integrity? Probing the hidden conceptual challenge”. In Peter Hardi, Paul Heywood, and Davide Torsello (eds.) *Debates of corruption and integrity* (pp. 102-119). Palgrave Macmillan; Heywood, P. M., & Rose, J. (2016). “The limits of rule governance”. In Alan Lawton, Zeger van der Wal, and Leo Huberts (eds.) *Ethics in public policy and management: A global research companion* (pp.181-196). Routledge.

⁴ The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members (2019), Available online: <https://publications.parliament.uk/pa/cm201719/cmcode/1882/1882.pdf>, p.9

c) How can the Code be made simpler, clearer, more transparent and more readily understood?

d) How can the requirements of the Code be communicated better to MPs and to the wider public?

The Code itself is a reasonable document, which is for the most part clear in its objectives and is written in a way which is fairly straightforward; notwithstanding references to Standing Orders which will likely be opaque to many members of the public but are important points of reference for members themselves. It is also sufficiently short that a member could easily refer to the Code periodically should they need, and moreover any interested member of the public could easily read the entire Code. The Code could nevertheless still be improved. Firstly, the Code could begin with a clearer statement about the importance of upholding the highest standards to maintain the confidence of the public who are the ultimate beneficiaries of all political action. This statement could also be more explicitly formulated as an ethical obligation. This would go a long way towards making the personal commitment of members to the ethical principles of the Code more salient as they engage with the Code.⁵ Secondly, for similar reasons, the Code could also be made more personal for each member through a slight change in language (i.e. rather than referring to ‘a member’ in the abstract, it could instead be personalised to say either ‘I will’ as a personal statement from each MP, which they could physically sign, or ‘as a member you will’, addressing each member individually). These are minor changes that would simply increase the personal engagement with, and salience of, the Code.

Nonetheless, while the Code itself is reasonable, the guidance quickly becomes very complex and may well undermine much of the good work done by the Code itself. As discussed above, the guidance goes a long way towards framing the issue solely as one of compliance with a specific set of rules rather than as a personal commitment to ethical principles, which as academic literature has argued can undermine the ethical values that such codes ought to be advocating.⁶ The word ‘integrity’ does not appear at all in the guidance, despite appearing three times in the Code itself. The word ‘standards’ appears only in relation to official bodies which have that word in their titles. This is especially problematic because the guidance is so long relative to the Code itself (being approximately 10 times the length of the Code in page count, and even more in word count). In this context, the guidance is the most problematic element, and should be thoroughly reviewed to increase both the salience and prominence of integrity and the Seven Principles of Public Life throughout the guidance. This should underscore that these principles are the key metric in which behaviour should be considered.

Making changes in these ways would also go a long way towards better communicating the purpose of the Code to MPs, and by virtue of the guidance better reflecting the substantive intention of the

⁵ Including direct engagement with ethical principles at the beginning of documents has been demonstrated to increase salience of ethical issues, as demonstrated by Shu, L. L., Mazar, N., Gino, F., Ariely, D., & Bazerman, M. H. (2012). Signing at the beginning makes ethics salient and decreases dishonest self-reports in comparison to signing at the end. *Proceedings of the National Academy of Sciences*, 109(38), 15197-15200.

At the same time, Codes that focus on ethical values have also been demonstrated to be effective (and only minimally invasive) ways to limit unethical behaviour, see: Sezer, O., Gino, F., & Bazerman, M. H. (2015). Ethical blind spots: Explaining unintentional unethical behavior. *Current Opinion in Psychology*, 6, 77-81.

⁶ Heywood, P. M., & Rose, J. (2015). “Curbing corruption or promoting integrity? Probing the hidden conceptual challenge”. In Peter Hardi, Paul Heywood, and Davide Torsello (eds.) *Debates of corruption and integrity* (pp. 102-119). Palgrave Macmillan; for a discussion of the use of ethical codes, see Sezer, O., Gino, F., & Bazerman, M. H. (2015). Ethical blind spots: Explaining unintentional unethical behavior. *Current Opinion in Psychology*, 6, 77-81.

Code would make it easier for members of the public to understand what is expected of MPs based primarily on a reading of the (relatively short, relatively readable) Code.

j) The current Code only authorises the Commissioner to investigate breaches of the Rules of Conduct specified in Paragraphs 10 to 17 of the Code – should she be empowered to investigate alleged breaches of the wider Code including the Seven Principles of Public Life?

m) How can Member, staff and public confidence in the Code and its operation be improved?

Yes, the Parliamentary Commissioner for Standards should be empowered to investigate breaches of the wider Code and of the Seven Principles, which form part of the Code. Of course enforcement is a sensitive issue, and parliament should pay due concern to the special role that the public have as electors in deciding whether a member has infringed upon appropriate standards of conduct. Yet a clear commitment to the Code and the Seven Principles, backed up by enforcement, is important as it allows for parliament to demonstrate to members its commitment to the Seven Principles and the general principles of integrity in the Code. In turn, this also makes the general principles of the Code and the Seven Principles more salient for members and of more practical importance.

At the same time, such an approach is also be crucial for upholding public confidence in the Code and in standards of conduct in public life more generally. In my book, *The Public Understanding of Political Integrity*, I investigated how the public's attitudes to standards in public life changed during the scandal concerning Derek Conway's use of his parliamentary allowances (a scandal that emerged in January 2008, pre-dating the broader expenses scandal).⁷ During the scandal, which received dozens of mentions a day in UK national newspapers, the public's beliefs about standards of conduct in public life became *more* positive. My work argues that this increase in positive perceptions is a direct result of the fact that this scandal emerged into the popular consciousness as a result of a parliamentary investigation and that this fact was reported in the media (which mainly cited the work of the then-Standards and Privileges Committee). People became more positive because parliament had the space to demonstrate that standards matter. By expanding the scope of enforcement and allowing the Commissioner to investigate potential breaches of the Seven Principles, parliament will be able to demonstrate more proactively its commitments to high standards of conduct in areas where at present it may struggle to find the mechanisms to do so expeditiously.

While the rules and systems have now changed, it is also worth considering the impact of the general parliamentary expenses scandal. This was uncovered largely as a result of work by the media where (at least from the media reporting) the public would be entitled to believe that parliament was trying to avoid scrutiny. While some of the behaviour uncovered would clearly violate elements of the Seven Principles of Public Life, not all of the problematic expenses claims would have clearly violated parliamentary rules at the time. The public's condemnation of the behaviour of some members was extreme, but parliament found itself without adequate systems to address much of the problematic-but-not-illegal behaviour that was uncovered. Whether more than a decade hence things are ultimately better as a result of the scandal is a matter for debate, but the scandal seriously damaged the public's faith in parliament and had lasting consequences. My research⁸ demonstrated

⁷ Rose, J. (2014). *The public understanding of political integrity: The case for probity perceptions*. Palgrave Macmillan. Ch. 5.

that following the scandal constituents of all MPs were relatively pessimistic about standards of conduct in public life, save only for constituents of MPs who never claimed under the expenses scheme at all. In effect, the failure of parliamentary regulation led the public to making the most negative possible inferences against members generally, even those who used their parliamentary expenses in a way that in fact met the highest standards of probity. Allowing the Commissioner a somewhat broader remit in enforcing the Code of Conduct is therefore one potential avenue for protecting the public's faith in parliament.

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⁸ Rose, J. (2014). *The public understanding of political integrity: The case for probity perceptions*. Palgrave Macmillan. Ch. 6.