



Seventh Report of the Committee on

Standards in Public Life

Chairman: Lord Neill of Bladen QC

# Standards of Conduct in the House of Lords

Volume 1: Report

Volume 2: Evidence

Presented to Parliament by the Prime Minister

by Command of Her Majesty

November 2000

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**The Committee on Standards in Public Life**

**Transcripts of Oral Evidence**

**Friday 7 July 2000**

**Members present:**

Lord Neill of Bladen QC (Chairman)

Sir Clifford Boulton GCB

Lord Goodhart QC

Frances Heaton

Rt Hon John MacGregor OBE MP

Rt Hon Lord Shore of Stepney

Sir William Utting CB

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**Witnesses:**

Lord Tugendhat

Rt Hon Lord Wakeham

Elizabeth Filkin, Parliamentary Commissioner for Standards

Lord Newby OBE

Lord Chadlington of Dean

1571. **Lord Neill:** Good morning everyone, and welcome to this public hearing in our study of the rules governing conduct in the House of Lords. This morning we have a number of senior parliamentary figures to give evidence, bringing together a great deal of experience and expertise relating to both Houses and many other areas of public health.

Our first witness will be Lord Tugendhat, who was a Conservative MP before becoming a member of the European Commission in 1977 and subsequently Vice-President of the Commission during the 1980s.

Following him will be the Rt Hon Lord Wakeham, who had wide experience as a Conservative Cabinet Minister and was Chairman of the Royal Commission on reform of the House of Lords, which reported in January this year.

Third will be Ms Elizabeth Filkin, who became Parliamentary Commissioner for Standards in 1999.

Then we will hear from Lord Newby, a Liberal Democrat spokesman on Treasury and trade and industry matters. The last witness today will be Lord Chadlington of Dean, a Conservative life peer who has served on a wide range of public bodies as well as holding senior positions with companies concerned with, among other things, public affairs and lobbying.

1572. You are very welcome, Lord Tugendhat. Thank you for coming to our hearing. We ask two members of the Committee to take the lead in putting questions. In your case, they will be Sir William Utting and Sir Clifford Boulton. Is there anything you would like to say for the record before we begin?

**LORD TUGENDHAT**

1573. **Lord Tugendhat:** Thank you. I circulated a three-sentence statement and have nothing to add.

1574. **Lord Neill:** Would you be kind enough to read it?

1575. **Lord Tugendhat:** Certainly. It reads:

"The purpose of my recommendation is twofold. One is to ensure that, as far as possible, the House of Lords can call upon the experience and expertise of all its Members. The other is to promote public trust and

confidence in its proceedings."

1576. **Lord Neill:** Thank you.

1577. **William Utting:** I would like to take you through a few of the points that arise from your submission, which is brief, clear and extremely helpful. You begin by agreeing with Lord Richard that there should be the same standards of conduct in both Houses but place that in the context of certain significant differences between them. Could you describe the crucial differences that would justify separate structures for the two Houses.

1578. **Lord Tugendhat:** It seems to me that the Lords is part-time and meant to be so. By contrast, Members of the House of Commons are virtually full-time. Peers get only attendance allowances whereas MPs are paid on the basis that being an MP is their main job. Also, peers have no constituents. Therefore, they have a responsibility to the nation as a whole but not to a defined group of people to whom they owe their position. The whole point of Members of the House of Lords is the personal expertise and authority that they bring. Many of them - I think this is desirable - are current practitioners in whatever profession or occupation from which they gain that experience.

1579. I would like us to ensure that all Members of the House of Lords can contribute on the basis of an agreed set of rules. MPs are elected on the basis of party affiliation. Many peers have a party affiliation but they are or should be primarily appointed on the basis of individual attributes.

1580. **William Utting:** What are the points at which you think there might be some convergence between the current structure in the Commons and that which ought to apply to the Lords? If one takes the registers, Categories 1 and 2 in the Lords are mandatory whereas Category 3 is entirely voluntary - yet the entire register in the Commons is mandatory. Do you think that what is now Category 3 in the Lords should become mandatory?

1581. **Lord Tugendhat:** I would like the House of Lords to have a lighter regime, reflecting the differences between the two Houses, but a mandatory one. I do not think it is satisfactory for some people to register their interests while others do not. The essential thing is that, as far as possible, everybody should be treated equally.

1582. **William Utting:** At the moment, it seems that one third of the membership of the Lords does not make an entry in Category 3.

1583. **Lord Tugendhat:** That gives rise to certain misunderstandings. Everybody understands that if one is in business, one has an interest because one is involved in a particular company. Some people do not always fully appreciate that such an interest is no greater and no less than if one happened to be an academic working at a university, a landowner or all kinds of other things.

1584. **William Utting:** Such as the trustee of a charity.

1585. **Lord Tugendhat:** Exactly.

1586. **William Utting:** So you think there should be a mandatory register but one that does not necessarily go into the sub-structures and detail that the Commons register does.

1587. **Lord Tugendhat:** That is my general view.

1588. **William Utting:** Categories 1 and 2 seem quite oppressive in the way that they operate. More oppressive than the Commons register. For example, if one is in either category - as you are - one is prevented from speaking on matters that led one to be placed on the register. It seems a fairly oppressive requirement in a legislature if one cannot speak, let alone vote. That is a fairly extreme prohibition.

1589. **Lord Tugendhat:** If people are appointed to the House of Lords, the purpose must surely be for them to contribute on subjects about which they know most. Provided they have declared their interests, it seems to me that there should be no inhibition on them from speaking. It is up to their audience within the House and outside it to judge whether they are speaking objectively and responsibly or are paddling a particular canoe. But to say that somebody should not speak on banking because they are, as in my case, chairman of a bank; or that they should not speak on the administration of the judicial system because they are solicitors would negate the purpose of the House of Lords.

1590. **William Utting:** It seems curious that a system that depends on personal honour should place such a barrier in the way of exercising it.

1591. **Lord Tugendhat:** I am sorry to say that personal honour is not a very satisfactory way of dealing with the matter. I do not mean to say that some people have higher standards than others, although self-evidently that must be the case in any gathering of human beings. But some people will genuinely interpret matters in a different fashion. I would like to see as clear a set of guidelines or rules, as close as possible to misunderstanding, so that everybody realises what it is that they can and cannot do - with the object of enabling as many Members as possible to speak on the subjects they know most about.

1592. **William Utting:** Is another point of convergence with the House of Commons a code of conduct? You are indicating that a code of conduct would be desirable in the Lords.

1593. **Lord Tugendhat:** Yes. I hesitate to say anything about the House of Commons because I am not up to date but I think that a code of conduct is necessary, by no means only in relation to what it is that people speak about or do not speak about. In the contemporary world, one needs a code of conduct to cover a variety of other practical matters.

1594. For instance one needs guidance - which most companies give, in my experience - on what kind of hospitality and entertainment it is appropriate to accept if one is involved in the subject concerned. My experience of most forms of employment is that one needs guidance on what expenses it is appropriate to claim. Honest people can take different views if they do not have such guidance.

1595. I noticed in the newspapers this week that judges are being given guidance about what it is appropriate to use their personal computers for. It might be helpful if there were guidance about appropriate use of the facilities of the Houses of Parliament, such as stationery. It is difficult for individuals to make judgements on their own. I emphasise that honest, well-intentioned people can come to different views. It would be better if everybody understood the system and complied.

1596. **William Utting:** So one would draw up a simple and straightforward code of conduct that dealt with general principles, backed by detailed guidance notes on the interpretation and application of those principles.

1597. **Lord Tugendhat:** Yes. It is difficult not to get involved with detail but in the companies with which I am connected, people are clear what expenses are legitimate to claim. Once people are clear, the system works without hassle or problem. At the moment, such matters are left to individual discretion and judgement - so the present system bears more harshly on some than others.

1598. **William Utting:** We have been warned, quite rightly, against over-prescription and too much detail, because that ends up being self-defeating. The art is to find the proper point of balance between over-prescription and lack of guidance.

1599. **Lord Tugendhat:** Yes.

1600. **William Utting:** What are your views about the disclosure of earnings. I read your comments as wanting to restrict disclosure to earnings acquired by providing parliamentary services.

1601. **Lord Tugendhat:** Yes, absolutely. Although my earnings as a director of companies are disclosed, so I have no personal axe to grind, it would be undesirable to expose earnings. That would bear very harshly on many people and encourage prurience. I draw a clear distinction, however, between earnings derived from the pursuit of one's normal occupation and those derived from paid advocacy on behalf of agencies or interests. If somebody is a consultant or agent of an organisation because they are a Member of the House of Lords or House of Commons, not only what is earned but the rules and conventions governing those earnings - the expenses claimed and so on - should be published. I do not go as far as Lord Owen, who said that he would ban such activities altogether but I would wish to raise considerable barriers and to see the practice diminish as much as possible.

1602. **Clifford Boulton:** You gave Sir William a rather general answer, saying that a person's employment should not restrict their ability to contribute to proceedings. If we relate that specifically to Members who have consultancies and ought to declare in bands their income therefrom, would you extend freedom to participate to those members or keep them, as they currently are, out of voting and speaking about issues that affect their clients?

1603. **Lord Tugendhat:** It is a matter of judgement. I would not restrict people from speaking or voting. If they have been made Members of the House, they ought not to be so restricted but other Members and those outside the House should, as far as possible, know where they are coming from and any personal stake, if any, they have in the matter. If I speak about banking, that is not because I am paid to do so but because banking is how I earn my living. It arises out of the knowledge I gain. Likewise with a barrister, solicitor, doctor or farmer. But if somebody is paid by XYZ Consultants representing a particular interest, that is quite different. Far more detail should be provided but Members should still be permitted to speak and vote, having declared their interest.

1604. **Clifford Boulton:** It might be thought that they have a specific interest in doing well for their client, to keep the business.

1605. **Lord Tugendhat:** Yes. However, if there are proper rules and Members have complied with the rules and declared, the House and commentators can judge for themselves.

1606. **Clifford Boulton:** In the Commons, the text of the contract that a Member has with such an agency has to be tabled, with a view to checking that it does not stray into the realms of literal paid advocacy. Would you favour contractual arrangements for parliamentary services being deposited in the Lords?

1607. **Lord Tugendhat:** Yes. That is the sort of openness that helps to dissipate misunderstanding on the part of the peer and on the part of those judging what he or she is doing.

1608. **Clifford Boulton:** Lord Griffiths told us that had his Sub-Committee recommended in 1995 that Category 3 should be compulsory, the House would have turned that down. Now that the composition of the Lords is different and times have moved on and were we minded to recommend that Category 3 should be compulsory, could you give some examples of the lighter touch you mentioned, to produce a useful register that was not unduly intrusive?

1609. **Lord Tugendhat:** I find it difficult to make comparisons with the House of Commons because I do not feel up to speed with it. I used the words 'lighter regime' because Sir William drew attention to practice in the House of Commons. I have in mind that Members of the House of Lords should list the sources of their earning. If the source is a specifically named institution, such as Abbey National in my case, or for others, say, the University of Cambridge, holdings of land or a partnership in a firm of solicitors, the name of the organisation should be given. Members should not be required to list the amount or to provide additional information.

1610. **Clifford Boulton:** In the Commons, Members are required to declare shareholdings of a nominal value of more than £25,000. Would that be intrusive for a peer?

1611. **Lord Tugendhat:** I would not go that far in the House of Lords, reflecting the differences between the two Houses. That is, the House of Commons is a paid, principal occupation and membership of the House of Lords obviously is not. Also, the purposes of the House of Lords are not quite the same as those of the Commons. The legislative impact of the House of Lords is less than that of the Commons.

1612. **Clifford Boulton:** I was trying to think of examples where a lighter touch would apply. That would be one of them.

1613. **Lord Tugendhat:** That would be one of them.

1614. **Clifford Boulton:** Do you have any other examples of the sort of thing that peers would find intrusive?

1615. **Lord Tugendhat:** If one earns one's living as a business man or barrister, one no doubt engages in a certain amount of travel. I travel frequently to places such as Japan, Hong Kong and the Middle East. I do so not for pleasure but entirely for business. It would seem unreasonable to require me to list the travel that I undertake as some sort of perk of office. It is not and it would be wrong to make it appear so.

1616. **Clifford Boulton:** Have you come across any cases in other areas where people are expected to declare their interests to participate in public life? Could we reassure the reluctant Lords that such a system operates widely and does not inhibit people volunteering for or taking part in public life?

1617. **Lord Tugendhat:** The two Houses of Parliament are unique. If one is a member of a board of directors, one has to declare one's interests - as some of your members will know from personal experience. I am Chancellor of the University of Bath. Each year, I declare my various interests for the University Council. The Ditchley Foundation, which is far removed from commercial life, still requires one to list one's interests. I do not think that anyone is deterred from joining the Council of the University of Bath or boards of directors because of the need to make a declaration. My experience of boards of directors is that one not only lists interests but if something comes up on the agenda that could lead to a conflict, the normal form would be to tell the chairman or company secretary. Then the chairman would decide whether or not one should attend or speak to the item of business in question. I have never found such arrangements to cause difficulty because they are open and everybody knows what they are supposed to do.

1618. **Clifford Boulton:** You do not declare your Chancellorship of the University of Bath in the Register but it is something you would declare if you took part in a debate about universities.

1619. **Lord Tugendhat:** Yes. Perhaps this is an example of misunderstanding but I have interpreted the interests that I should declare as being those from which I derive earnings. I do not derive any earnings from being Chancellor of the University of Bath. But were I to speak in a debate on education, I would regard it as mandatory to declare an interest.

1620. **Clifford Boulton:** What about taking part in votes, where you have not had the opportunity to declare an interest. You might vote on a matter relating to higher education but the House would not have the opportunity of knowing your interest.

1621. **Lord Tugendhat:** No. This is the first time I have thought about the point in relation to a non-pecuniary interest. If the rules were sufficiently clear, requiring me to declare the University of Bath as well as Abbey National, I would be free to vote as I choose. Because my interests would be registered, it would be clear where I was coming from. Everything would be open. I would be exercising my right as a Member of the House of Lords and others would know what might have influenced my vote.

1622. **Clifford Boulton:** So it is a case of a few more rules leading to consistency, which you think might be lacking.

1623. **Lord Tugendhat:** Yes. You have drawn attention to a misunderstanding or dichotomy. I would have no difficulty listing my non-pecuniary interests as well.

1624. **Lord Shore:** My colleagues have already noted the relative severity of the Lords rules for Members who come under Categories 1 and 2, as to things they must not do in the House. The wording is

"shall not speak, vote, lobby or otherwise take advantage of their position."

You have made clear your view on voting and speaking but other activities have caused most concern - certainly in the Commons. I refer to the tabling of amendments to Bills in an expert context, the pursuit of particular matters with Questions and taking deputations to see Ministers. Am I right in assuming that you would wish to retain the bar on those activities and confine the right to speak to taking part in general debates, such as Second Readings?

1625. **Lord Tugendhat:** I find this a difficult area. A recent Bill on the administration of justice clearly bore directly on the professional interests of barristers and solicitors in the House. On the other hand, they know a great deal more about the way in which courts work than somebody like myself. I would not have wished to see them inhibited from moving amendments or anything else. My guiding light is dealing with something that is part of one's normal occupation as opposed to operating as paid agent for a specific purpose. I do not like the idea of a Member working for XYZ PR Consultants on behalf of the Law Society moving amendments but I would feel unhappy about inhibiting peers who are members of the Law Society from doing so. I think that would restrict the expertise of the House. A paid agent has no expertise. He is briefed. Somebody who is a professional in a field has independent knowledge that is not derived from a consultancy fee.

1626. **Lord Shore:** But a professional of the kind you describe would not be caught by Categories 1 or 2.

1627. **Lord Tugendhat:** I am not clear enough on the distinction to offer a clear answer.

1628. **John MacGregor:** I agree entirely with your comment about the importance of having a wide area of expertise able to participate fully in the House. The same applies to the House of Commons. I find the rules on advocacy in the Lords stricter and less easy to understand than those in the Commons. It could be thought that a benefit such as being an employee of a company and being paid by it is a source of influence and ought to be taken into account when deciding whether to speak or vote in the House. Have you ever felt that you should not speak or vote on banking or financial matters or do you draw a clear distinction and feel that is all right?

1629. **Lord Tugendhat:** I find it difficult to provide a clear answer. I did not speak or vote to the extent that I might have done on the Financial Services Bill that has just gone through the Lords. That was because I felt there was a problem in distinguishing between me as an individual and me as chairman of Abbey National. I felt that if I had spoken and voted on certain matters, it would have been presumed that was Abbey National's position, as distinct from my own. The extent to which I was influenced in my self-denying ordinance on that Bill arose primarily from a fear of compromising the institution of which I am chairman. I would approach matters on an issue-by-issue basis.

1630. **John MacGregor:** That was unfortunate in a way, because it meant that the House was deprived of your knowledge in relation to that important area. In the House of Commons, if one is a non-executive director of a financial organisation, provided that was declared and fully known, one could both speak and vote.

1631. **Lord Tugendhat:** I did not regard myself as being prevented from speaking or voting. I was just concerned that there should not be any misunderstanding outside as to me as an individual and me as chairman of Abbey National. In that respect,

there is a distinction between a chairman and a non-executive director. I am a non-executive director of Rio Tinto. If we were debating mining, I would declare that interest but I do not think anyone would suppose that any view, decision or action of mine reflected the view of Rio Tinto. In the case of Abbey National, because I was chairman I thought that there was greater scope for misunderstanding. I did not feel that I was prevented by the House of Lords from speaking. My sensitivity towards the company was my guiding light.

1632. **John MacGregor:** As to paid advocacy, we have been told by Lord Newby that he has for a number of years advised the Prince's Trust and is now acting as chairman of a major football initiative that involves development activities for unemployed young people. No aspect of either of them relates, he says, to parliamentary lobbying yet he believes that he is debarred under the rules from any debate on youth unemployment. If that is a correct interpretation of the rules, it suggests that they have gone too far.

1633. **Lord Tugendhat:** Absolutely. If that is the correct interpretation, it seems to be *reductio ad absurdum*.

1634. **Lord Goodhart:** If one allows Members with paid consultancies on behalf of a particular business or business sector to initiate debates, speak and table amendments, businesses might then feel that they need a hired gun? Might not that practice become widespread, with a large number of Members of the House of Lords ending up as paid consultants?

1635. **Lord Tugendhat:** I deplore the idea of paid consultants. I deplore the practice of hired guns in either House. I would wish to see through the rules I mentioned a great deal of deterrence to that activity. Personally, I would not have any difficulty with prevention but my general view is that rather than preventing people from doing things, there should be rules that ensure that their motives, intentions and interests are exposed to the maximum degree of light. In many human affairs, light is a good disciplinarian.

1636. **Lord Neill:** Could you address the argument, "If it ain't broke, don't fix it"? It is felt quite strongly in some quarters in the House of Lords that there should not be an inquiry of this sort at all. Leaving that aside, the view has been expressed that there are no scandals, nothing has gone wrong, there is no public concern and people are not writing to newspapers that sleaze is evident in the House of Lords. The argument is adduced that there is no need to alter a system that is working perfectly well.

1637. **Lord Tugendhat:** Institutions like cars and washing machines can become a little out of date. One has to move with the times. One has to ensure that one is operating according to the standards that are prevalent within society at a given time. I think of the old maxims that prevention is better than a cure, and that things must not only be right but be seen to be right. They apply very much in this area. It would appear to me odd if standards of disclosure in the legislature of our country were based on significantly different principles than those required in a great many other walks of life - such as business and university councils.

1638. The fact that something has worked very well in one epoch does not necessarily mean that it is ideally suited to another epoch. I am not in favour of change for the sake of change. I am not in favour of always being in keeping with the latest nostrum or theory. But one has to recognise that requirements and expectations alter and one needs constantly to consider rules and conventions in that light.

1639. **Lord Neill:** Thank you very much. We will have to stop there, even if there are other questions still pending. Thank you very much for attending. It has been a very interesting and helpful exchange.

1640. **Lord Tugendhat:** Thank you.

1641. **Lord Neill:** Thank you, Lord Wakeham, for attending. You come with special expertise, having been studying the House of Lords for a number of months and produced a report - which is on a different aspect. I want to ask you a question about it in a minute. We have a short opening statement from you, which we will include in the record at the beginning of your evidence.

You heard my question to the last witness. Do you share his view that one should not simply stand back and make no recommendations because nothing has gone wrong in the House of Lords since the Griffiths Report was produced and accepted?

**RT HON LORD WAKEHAM**

1642. **Rt Hon Lord Wakeham:** I do not think that one can go on for ever with one system without having a sensible review, to see reasonably independently whether or not it has fulfilled its expectations. My impression is that the Griffiths Report has not worked too badly. After all, it has not been going that long. I would tend to be a bit slow about wanting to change things

very much at this time. In principle, one cannot go on for every saying, "If it ain't broke, don't fix it" but it is a question of timing.

1643. **Lord Neill:** Under Part 3 of the Lords register of interest, you have quite a long list of directorships of one sort or another. There are a couple of schools there and Alexandra Rose Day, which is a famous charity. My impression is that quite a number of peers, even those who have registered, who would not register a charitable interest of that kind. Is there any problem with the present register, in terms of incompatibility? So little guidance is given as to what should be included that one can get a hugely different range of response.

1644. **Lord Wakeham:** I think that overwhelmingly the most important thing is the declaration of interest at the time one is speaking, participating and so on. The idea that because one's interests are in a register that most people have not bothered to look at one can avoid making a declaration of interests is a very dangerous nostrum. To some extent, the register is a slightly worrying factor. I send off every year to the Register my up-to-date CV and say, "You can pick and choose what you like, so far as I am concerned. I've got no secrets. If you want to put it in the register, do so." I just send the lot in and put in what they want. It does not worry me in the slightest.

1645. The thing that I am passionately concerned about is that debate and proceedings in the House do not proceed under false premises. I want to know where people are coming from when they are making remarks. That is overwhelmingly the most important thing. It will be increasingly important if we get to the sort of House we have advocated, which is basically a part-time House for the bulk of peers - who will be conducting themselves most of the time in other worlds. When they come, they come. The idea that they should rake up all sorts of interests for a register that have no part in the proceedings of the House would be a deterrent to getting the right people.

1646. My view is that the House could compile a register from public sources. If anybody wants to add to it, fine. One public source is any Member who speaks in a debate, because that is on the record. That is of value for other people to look at if they want. The most important thing is a declaration of interest at the time of debate.

1647. **Lord Neill:** There are two audiences. One is the peers present when one makes a speech. Take a press matter. You would immediately refer to your chairmanship of the Press Complaints Commission. What about the public interest, in being aware of what interests peers have? Part 3 of the Register has language such as requiring a peer to register anything that he considers may affect the public perception of the way in which he discharges his duties. There seems some element there of the public.

1648. **Lord Wakeham:** I do not pretend to be the greatest expert, any more than Christopher Tugendhat was, on the existing register. My view is that if the Register is compiled by the House authorities from publicly quoted information, my chairmanship of the Press Complaints Commission and my directorships would be recorded automatically. They ought to be seen. There is no secret about them. It does not matter whether one declares them or not.

1649. **Lord Neill:** You are the only witness that I can recall who has advanced that point of view. I am not saying that you are wrong. You may be right. It may be for the authorities, with all the benefit of computers and the Internet, to compile the Register.

1650. **Lord Wakeham:** People could be sent a draft and asked if they want to add to it. In my experience of both Houses, which goes back a fair number of years, very few people do not want to declare an interests if they have them. It makes the House think that one knows something about the subject that one is talking about. I have heard more people declaring interests that were fairly phoney to make them sound authoritative when they were not than the other way around.

1651. I find it extremely hard to think of anybody ever having been deceived, or the House being deceived subsequently, by a Member not declaring an interest and Government policy or legislation has changed. In my experience of the Whips Office, we knew the people who sailed a bit too close to the wind. We knew the people who were particularly friendly with people. They were discounted for that reason. It is a close community. I am very keen on a declaration of interests. That is the honourable and proper thing to do. But as to lists of minute detail, I do not think that is anything like the problem that some people think.

1652. **Lord Neill:** Suppose it is a big debate and not everybody can speak and a Member's interest is undeclared. Is that a problem? Those who have spoken will have declared their interests. What about if the others vote?

1653. **Lord Wakeham:** I have no difficulty about voting on public business. If I happen to be a garage proprietor and road tax was going to increase, I would not have any difficulty. I would feel somewhat inhibited about playing a part in a private Bill or something of that sort if I had an interest that nobody knew. I think most Members would feel some inhibition about playing



that part. I do not believe that is a great problem, certainly not in the House of Lords. We do not want a lot of rules to cover somebody who might have a private interest in dogs when the House is debating dog licences.

1654. **Lord Neill:** In your evidence to Lord Griffiths five years ago, one of your arguments against a compulsory register was that it would

"to some degree inevitably lessen the sense of honour."

Could you elaborate? Why do you think that would be the case?

1655. **Lord Wakeham:** Most of us think very carefully, as to whether we ought to declare an interest in any way. If it is all registered, one would not necessarily think so carefully about it. In any case, if one has failed to say anything during the course of debate and people think one should have done, one could fall back on saying "It is in the Register." I do not believe that is good way of conducting debates.

1656. **Lord Neill:** I want to ask you about the House of Lords that you foresee. I do not want to get into the detail of the report but you envisage a House composed primarily or largely composed in such a way that it is different from the House of Commons. You do not want 100 per cent professional politicians but a mix. Do you think that any change in the composition of the House that might arise from your recommendations should have an impact on the problem we are examining? Would it make any difference if your views were accepted in full?

1657. **Lord Wakeham:** One could have one form of declaration of interests in the House of Commons, where overwhelmingly full-time professional politicians are operating. One would have to consider carefully whether the same form of declaration would be appropriate for a House in which the bulk of Members are part-time and do not attend often - only to contribute to a subject that they know about. We will find it very difficult to get all the right sort of people if membership of the Lords is seen to be too onerous.

1658. I would sooner see three Vice-Chancellors as members of the reformed House of Lords who continue to be Vice-Chancellors than one Vice-Chancellor who has to give up that office to serve in the House of Lords. You must have a different regime for people who are not going to attend that often. Provided it is absolutely clear that if they do take part, where they come from has to be known.

1659. **Lord Neill:** I invite Lord Goodhart to take up the questioning.

1660. **Lord Goodhart:** If there is a compulsory rule about declarations of interest, why should there not be compulsory registration of interests?

1661. **Lord Wakeham:** I think that registration implies a lot of detail that would not be relevant to one's role in the House of Lords.

1662. **Lord Goodhart:** Does not that depend on the rules? If one said that a peer had to disclose sources of income as a barrister or farmer but not the names of one's clients if one was a professional lawyer, would not that be reasonable?

1663. **Lord Wakeham:** I do not think that is very reasonable or relevant. I am not particularly interested in what a barrister earns but who he acts for might be relevant. If it is, he ought to declare it. As to his income, he may be overpaid. I do not think that matters very much. The most important thing is to know where he is coming from in debate.

1664. Observations have been made over many years about paid consultancies. The truth is that overwhelmingly the people who are 'swindled' over paid consultancies are the companies that are foolish enough to pay these people and think they are effective. There are simply not effective. In my experience, other parliamentarians see them coming a mile off. They are not very good at getting anything for their clients. It will die and become more realistic.

1665. **Lord Goodhart:** If one is acting as a paid consultant, that is already contrary to the rules of the House.

1666. **Lord Wakeham:** Indeed. That was not so for most of the time that I spent in the House of Commons. If that is the rule, it is the rule. I have never accepted a job as a paid consultant. I would not feel that it was honourable to take the money for what one can do.

1667. **Lord Goodhart:** Do you think that the present rule about not being allowed to speak or vote if one is a paid consultant should be retained?

1668. **Lord Wakeham:** I do not have a very strong view about it. I think it is rather a sorry state. If we keep that rule, perhaps

such people would wither on the vine. We talked about lobbying in our report. We were not concerned about financial lobbying. Our view was that Members of the House of Lords take a much more detailed interest in what is in the legislation than a great many people in the House of Commons. If one is a company or an institution with something to get across and send a letter to every Member of the House of Lords, there is a fair chance that one of them will read the letter, seek more information, be persuaded by the arguments and lobby for that point of view - not particularly or rarely for financial gain but because he has been persuaded by the argument.

1669. Anybody has any doubts about that should read the proceedings on the last Companies Bill in the House of Lords and compare it with the proceedings in the Commons. In the Lords, people were genuinely trying to identify the issues. They are lobbied but there is very little financial reward in it for anyone.

1670. **Lord Goodhart:** Do you think that the House of Lords is therefore a more attractive target for lobbyists than the Commons.

1671. **Lord Wakeham:** Yes, in a sense. People in the House of Lords are receptive to understand the argument and to advocate a particular case about which they have been informed and persuaded. I do not think that many members of the House of Lords look on that as a method of financial gain. They are genuinely trying to do a job as legislators and are receptive to advice and help given by people outside who are concerned about the legislation.

1672. **Lord Goodhart:** Do you have any views about the balance of lobbying, as between commercial interests and pressure groups?

1673. **Lord Wakeham:** If legislation is going through both Houses, it is the right of every citizen, company and institution to make sure that their views are known by the people who are legislating on their behalf. I am in favour of that information being delivered and pursued. Our task as legislators is to read it, understand it and decide what to do. I take a totally different view of being paid to do that.

1674. **Lord Goodhart:** One of the proposals in your report was that a proportion of the membership of the House of Lords - varying from 65 to 195 - should be elected. Once they were elected, presumably they would have to be paid.

1675. **Lord Wakeham:** The report said they should be elected but it also made the point that they should be elected once only. In a sense, one could argue that we were advocating a system of appointment by the people in the regions. We did not think that a central body was a good way of finding people from the regions. We were at pains to say that everyone should be treated the same. We were a bit vague about payment, except that we recognised that nobody should be deprived of serving because they did not have a means of income. Most of us favoured a daily attendance allowance that covered some living costs as well as expenses. We would not have been in favour of a salary. But we recommended that it was for others to decide.

1676. **Lord Goodhart:** If people were paid a significant living allowance or a salary, would that alter the view on registration?

1677. **Lord Wakeham:** I do not think so. A legislator, whether or not he is paid, has a position of responsibility and must declare where he is coming from. If one is paid a significant salary or an allowance, that may alter the most effective and proper way of handling the registration of interests. If one does not get paid unless one attends and participates, I see no reason for being terribly worried about registration. A comprehensive register may be appropriate for a House made up of professional, full-time politicians but a different system may be appropriate for a House made up substantially of part-time people.

1678. **Lord Goodhart:** There is clearly a wide difference of opinion among Members of the House of Lords as to what they ought to register under Category 3, if they choose to register. Would it be desirable to offer guidance, to ensure consistency of practice?

1679. **Lord Wakeham:** I could not complain about that. That probably is the right way of doing it. If we get the right sort of regime, I think there would be considerable enthusiasm among Members to try to do the right thing. If we get the wrong regime, we will have all sorts of hostility, difficulty and argument. I would like a relatively light regime. There should be some consistency. There is no reason for not achieving it and it would be an advantage.

1680. **John MacGregor:** It is clear that the House of Lords is flexing its muscles a good deal more, defeating the Government and so on. Quite a number of people have put to us the argument that there will be a great deal more media focus on the transitional House, if there is to be House - let alone the kind that would follow from your report. Could that lead to the kind of thing one has seen in the Commons, with the media trying to fish out undeclared interests and would a mandatory Category 3 be a protection against that? Also, do you think there is need for a Parliamentary Commissioner for Standards in House of

Lords?

1681. **Lord Wakeham:** The answer to your second question is no. The answer to the first that I do not see the pattern of events in quite the way you phrased your question. We are in the middle of a transitional period. There is considerable disagreement - I do not want to be political - as to the way that things have been handled in House of Lords. There is a high level of political fervour and activity, partly based on the size of the Government's majority. I do not look upon any of those as normal. Things are likely to settle down and if our report is adopted, I anticipate reflective, revising and not particularly partisan but intelligent consideration of those issues. I think that the House will revert to an atmosphere much like it used to be. It is not that at the moment but I view that as a temporary phase while we are going through all these difficulties.

1682. **Frances Heaton:** Everybody who has spoken has put declaration and voting into a common packet. You have majored on the importance of declaration, putting registration as subordinate. If Members just vote and do not speak, they do not declare their interests. Would you say that does not matter because the significance of declaration is purely internal, within the House, as the purpose of speaking is to influence others - whereas the purpose of voting is to express what one thinks oneself?

1683. **Lord Wakeham:** I have always been brought up to believe that voting on public issues, whether or not one has a personal interest in them, does not matter. If there were an occasion when one wanted to express a personal view without having the chance to declare an interest, I would feel inhibited - but they are so rare that I am not particularly worried about them. If the House of Lords comes to be like some people think it is now, I would soon become a unicameralist. I see no point in a House of Lords that just repeated what went on in the House of Commons. That would be an absolute waste of time.

1684. **Lord Shore:** I do not dispute the importance you attach to declaration at the time of debate but I wonder whether you are underestimating the utility of a written register. Your long experience of the House of Commons, which I share, and your particular knowledge of the place as a Chief Whip perhaps leads one too easily to the view that we know where all our fellow Members are coming from. But as a relatively new Member of the House of Lords, I am not sure that I do know where people are coming from. I find it convenient from time to time - not that I necessarily have any doubts about the bona fides of fellow Members - to know a little bit more about the background of other peers, without having to thumb through Who's Who, which is rather a large volume, to evaluate their worth and contribution.

1685. **Lord Wakeham:** That is why I advocated the House having a register. It could be compiled from all public sources. Overwhelmingly the bulk of the information that you want would be in that register. Then I would invite peers to add to it if they want, on a voluntary basis. If we found some serious problems, we might have to change that arrangement. I do not believe for a minute that we would get serious problems. What I do not want is to make the system so onerous that the type of part-time person who is vital to a reformed House of Lords is frightened away by prying. Someone might say, "My wife has a farm in Somerset but nobody asked me to enter the House of Lords because my wife is a farmer." I am anxious about the way that the House of Lords will develop.

1686. **Lord Shore:** But if the system did not require intrusive bits of information but was rather closer to a Who's Who entry, would you have any real objection?

1687. **Lord Wakeham:** No. My point is that could be done by the House authorities, circulated and added to if necessary.

1688. **Lord Shore:** It would help public perception if there were a 100 per cent return, rather than just 400 members registering.

1689. **Lord Wakeham:** My opening statement advocates just that. That would be perfectly acceptable.

1690. **Lord Neill:** You have answered all our questions, Lord Wakeham. We are grateful to you for attending. It has been illuminating.

1691. **Lord Wakeham:** Thank you. I enjoyed it when you came to talk to us and I have enjoyed coming to talk to you.<sup>2</sup>

1692. **Lord Neill:** Our next witness is the Parliamentary Commissioner for Standards in the House of Commons, Ms Elizabeth Filkin. Would you be kind enough to take the seat? We are grateful to you.

1693. Is there anything you would like to say by way of an opening statement? We are going to ask Sir Clifford Boulton and John MacGregor to take the lead in putting the questions but we shall listen to anything you would like to say at the beginning.

**ELIZABETH FILKIN**

1694. **Elizabeth Filkin (Parliamentary Commissioner for Standards):** No, I am more than happy to answer any questions the Committee has.

1695. **Clifford Boulton:** I think you heard Lord Wakeham talking about the risk of a register which was extended from its present nature in the Lords becoming intrusive or resented by the peers, partly because there are bound to be many of them who regard themselves, quite properly, as part-time and have their more substantial activities take place outside. We are obviously thinking about ways in which some system could be effective without being intrusive. Could you give examples of the system in the Commons which Members have found to be either irksome or intrusive? What do you find the most reluctance amongst Members to comply with?

1696. **Elizabeth Filkin:** I do not find that Members are reluctant. It is the responsibility of Members of Parliament as to what they put in the register. I do not have a role in telling people what they have to put in the register. From my office we send Members a list of the requirements which the House has laid down, which they are required to enter in the register and Members send it back to us when they have filled in the form. We get a lot of Members contacting us for advice, to make sure that they have fully recorded the interests that the House wants them to record. We get a great number of people by telephone and in person asking us for advice and we try to give that advice in line with the rules that the House has agreed. I have not found Members at all reluctant. There may be some reluctance amongst some people of course, the odd person, comes to tell me that they think the rules are terrible and they wish the House had not ever instituted them but they suppose they have to comply with them and please would I give them advice to make sure they get it right. Of course that is their view and that is fine.

1697. **Clifford Boulton:** But there is no particular area where they make that complaint or moan about.

1698. **Elizabeth Filkin:** No. There is a real issue about privacy when one has to investigate complaints. I have to say I have only investigated 22 complaints since I have been there; very often people get the numbers out of proportion. There are 650 Members and most Members never have any complaints about them in any form. Most of the complaints which come to my office I do not investigate and I turn them down because there is no evidence to suggest that there is anything in them. In others when I have asked the Member for the facts I can tell the complainant that there is nothing in them and I do not need to investigate them further.

1699. When I have to investigate them, with most of the complaints, the very great majority of them, there is no issue about obtaining the information from Members. They are open, they want to be open very quickly. They often contact me themselves before I have even got the complaint when they have heard about the complaint perhaps from a fellow Member or constituent or whatever and they rush round with all the information, very keen to be very, very open. There have been one or two - and it is only one or two and again it is very important that it is not got out of proportion - where I have had to ask questions which that particular Member has felt was intrusive. I have to say when I have had to do it it has been because I have not been confident that the information I have been given is sufficient or accurate. I have to check whether it is sufficient and accurate and therefore I do have to ask the odd intrusive question. On that I can always assure the Member that if they believe that information is personal or private, I can inform the Standards and Privileges Committee and it is entirely up to the Standards and Privileges Committee whether they think that it is so relevant to the complainant that it must be published. They are very sensitive to Members' privacy and will not publish things if they can avoid doing so, which are about people's private interests.

1700. **Clifford Boulton:** One of the fears which has been expressed to us is that any move towards a compulsory system in the Lords will inevitably carry with it a great corpus of rules, regulations, guidance and so forth. Seventy-three paragraphs of guidance are sent to Members of Parliament. Is that necessary? Do you find that has become something which really is needed by Members in order for the Commons' system to run?

1701. **Elizabeth Filkin:** Of course for any institution it very much depends on what sort of code of conduct or set of rules you decide you want. Many institutions can act perfectly all right by having a set of ethical standards because all the members in that institution agree on those standards and know what those standards mean. You do not have to have great written documents.

1702. When you have a lot of people who have different views of the world and when you have a lot of people who are new, or where there is a constant turnover in an institution, people may not always be sure what those standards are, what those ethical bases are. So I can understand why the House of Commons decided it wanted a detailed set of rules and why it then also decided that because you have to look at practical cases you do need to give people guidance. Any guidance you produce of course will not provide detailed guidance in all situations. So you will have to use common sense and you will have to refer back to the guidance you have and ask how it applies to the new situation. You have to have a mechanism for doing that.

1703. The answer to your question is no, I do not think you necessarily need a document as long as that; indeed - I believe you have had copies - I have produced a pocket guide to the rules which Members say is what they use mainly. Then they ring up my office if they want to know what the bigger document says because they do not carry that around in their heads. We tell them or we write them a note reminding them of the relevant bit so they can look it up easily. That seems to work generally quite well.

1704. **Clifford Boulton:** One of the things we are looking at is the extent to which a Member's interests actually restrict his ability to take part in proceedings. Paragraph 57 of the guide says that in addition to the actual specific advocacy rule:

"Members should also bear in mind the long-established convention that interests which are wholly personal and particular to the Member, and which may arise from a profession or occupation outside the House, ought not to be pursued by the Member in proceedings in parliament".

How do you help Members to understand how restrictive that is? What is meant by "wholly personal and particular" interests which would keep a Member from taking part in proceedings?

1705. **Elizabeth Filkin:** I have not found that Members have found that particular section of the guide particularly difficult. It may be because Members do not define things which other people would define as personal interests as such. But I do not get that impression. I have had various enquiries, particularly when people have been involved, for example, where their properties are subject to planning arrangements in which a department is involved in one way or another. They will then consult and be very careful because they might have benefit or expect one if a particular piece of legislation goes through. We try to chew it through with them and of course it is the Member who comes to the decision but we try to offer the sorts of advice about the probity, standards, which we think are necessary.

1706. The situations Members consult me about where they do find the rules restrictive are on initiation of proceedings, where they have wide financial interests outside parliament. Where they have narrow interests outside parliament, and they may have a number of paid interests but if they are narrow in scope, they do not cause them much problem. For example if a person is a non-executive director of a consultancy or a firm of accountants with very, very large numbers of clients, they may feel that their business interests do impinge on a very wide range of other people. Those are the people who find some of those restrictions, which of course are not put there to stop them doing their proper parliamentary business, they are there to stop the unworthy, but the rules do, sometimes cause some difficulty for Members in those situations.

1707. By and large I believe Members have found ways of dealing with that, making sure that other people are informed about the facts, making sure that other people do know the arguments and can take matters up if they see fit. It is that area where people find some restriction.

1708. **Clifford Boulton:** I think we have already expressed an opinion on that matter.

1709. **Elizabeth Filkin:** Yes; absolutely. The Standards and Privileges Committee has been considering those views because they share some of those concerns.

1710. **Clifford Boulton:** One of the rules is:

"Where the Member is an adviser to a trade association or to a profession or other representative body, the Member should avoid using a constituency interest as the means by which to raise a matter which relates primarily to the wider industrial, professional or other interest".

That would not apply in the Lords because they do not have constituencies but they do come from particular areas of the world, for instance a Member might be a Chancellor of a university in the Lords. By comparison with the Commons rule that would stop him taking part in a debate on higher education by instancing the particular problems of his university, would it not? Is that not a restriction which is unreasonable?

1711. **Elizabeth Filkin:** No, that is not right. The rules in the House are very, very less restrictive about speaking. The restrictions can be quite difficult for people initiating proceedings. If that Vice-Chancellor were just talking about trying to promote the exclusive interests of his institution, yes he would be restricted, but he is not restricted from talking about the problems facing universities under the House of Commons rules.

1712. **Clifford Boulton:** That was not how I read that particular paragraph. It just shows the need for having someone who

can give one help in these matters.

1713. **Elizabeth Filkin:** Absolutely. Speaking in the House of Commons, unless one is speaking to promote an interest exclusively, is much less restricted.

1714. **John MacGregor:** We have had a large number of representations that there would be real dangers in replicating the House of Commons system in the House of Lords. In order that I can be objective about it, I think it would be easier if I just read out - forgive me for doing this, it will take a little time - the evidence we have had from Professor Oliver, Professor of Constitutional Law at UCL. This quite neatly encapsulates a number of the points. She says:

"If such an elaborate system were adopted in the Lords, it could paradoxically serve to undermine the ethos of the Lords, which is reputed, rightly or wrongly, to be highly altruistic and independent. Such a system",

that is the system in the Commons,

"can undermine trust unnecessarily. Complaints about failure to register or declare interests in the Commons had proliferated since the system was put in place. Some of these complaints have turned out to be unfounded, some have been found to be minor oversights. My impression overall is that the making of allegations and having them investigated has been sometimes used as a weapon in battle between the parties in the House. It has undermined trust in the House and I would guess that it may have given rise to an element of tit-for-tat between the parties. If it has not yet done so, there is certain scope for it to do so".

She concludes:

"I would not wish myself to see such elaborate procedures put in place in the Lords unless there were sound reasons based on experience to do so".

I wonder whether you could comment on those points. This is the burden of a lot of the suggestions we are getting put to us.

1715. **Elizabeth Filkin:** It seems to me that there is a variety of points in that statement. Perhaps I can try to pick them apart.

1716. You do not have to have the system as a whole. Of course I assume that she is talking about the system as a whole as in the Commons. The registration of interests, whether compulsory or voluntary, but anyway achieving the same end, obviously can stand alone. You do not have to have the rest of the process if the House of Lords so chooses. All I can do is to tell you what the situation is if you do have the other part of the system, which is that if you are going to have any mechanism, if people think there possibly might have been a breach of any rules which an institution lays down, then you obviously have to create some sort of mechanism for looking into whether or not there has possibly been a breach. There is a whole range of systems one could have.

1717. The system in the House of Commons - and obviously I would say that would I not? - seems to have some features which might be considered in the sense that it does have a mechanism where there is somebody actually to amass the facts. I doubt Members of Parliament would have the time to amass the facts themselves. They need a dogsbody to amass the facts in some form or another. That does not of course mean that that person need say what they think those facts amount to if it were chosen, but the process of amassing the facts is often very onerous.

1718. Then there is the process of having some advice on what those facts add up to in the light of the rules that the institution has laid down. If those rules are complicated, it may be useful to have advice on that. Whether or not the system as in the Commons produces inter-party tit-for-tat is a comment of course that a lot of people make. As I have said, my experience is very limited. The Commons procedure allows me to decide not to look into two thirds of the complaints which come to me; it is entirely my decision that I do not need to take them any further. By asking the Member of Parliament for the facts or by looking at the letters myself, I can see that there is no basis on which to look into them and I can tell the complainant and the Member of Parliament.

1719. Of the ones I have looked into I have not upheld almost half of them; the others I have upheld. Turning to the people who make them, it is difficult for me to be clear about what their motives are and often their motives may be mixed. Some of their motivation may be that they are wanting to have a go at the other party. I have to say from the people I have dealt with I have not found anybody I would clearly put in that category. There is no doubt that some of those people are making complaints about people over the other side in the other party, but I have to say that by and large those people do feel very passionately that there is an issue of public interest when they bring the complaint. I may not share their view but they feel it very clearly and intensely. I do not think they are bringing the complaint just to have a go, although the odd one may. I think they are usually bringing the complaint because they think the rules should be upheld and that they have a public duty to pick

up things when they think they are not. I also have to say that many of the complaints which do come from Members of Parliament to me, come via their constituents. It is their constituents writing to them about other Members of Parliament which makes them take it up. I see the back letters before that and although the complaint has come from that Member they have come from elsewhere in the public originally.

1720. Were there any other bits of that which you wanted me to comment on?

1721. **John MacGregor:** My other question will really follow it up in a way because I was going to ask you, and you may not be able to answer this, whether you felt there was a case for a Parliamentary Commissioner for Standards in the House of Lords, bearing in mind some of the points which have been made to us that there have been no complaints in practice in the House of Lords since the Griffiths Report was set up, that there is a system of having Law Lords involved in looking at any complaints and so on.

1722. **Elizabeth Filkin:** I do not think it is for me to say. I think that is entirely for the House of Lords to decide. What I would say is that I do think that if openness is a value which is important, then our very important institutions need to carry that out in their daily business, for a reassurance of the public and for the leadership they can give other institutions as much as for what may be occurring in their own institution. I should be delighted if any institution never had to use its complaints system.

1723. **John MacGregor:** The House of Lords has a system and perhaps I could just say on behalf of the House of Lords that if there have not been any complaints so far it suggests that there is not a great deal of public concern about the system not being used properly in the Lords.

1724. **Elizabeth Filkin:** That may be absolutely true. I do not have the evidence one way or another to know whether that is true. All I can say from my office is that we get a lot of comment from the public and indeed from Members of Parliament that they are using the system or speaking to the system or getting advice from the system because they believe the complaints procedure will be operated if necessary and that they trust that it will then be carried out fairly.

1725. I make no comment on whether there are any complaints about the House of Lords, whether there should be or whether the House of Lords needs any system. What I believe is true of many, many public bodies, and much of the work done on complaints systems so successfully by many public bodies does demonstrate this is that there is a value in having a complaints system for the assurance of the public. One hopes it will never be used and there will never be anything that anybody needs to look into.

1726. Do you need a parliamentary commissioner at any point in that situation? Maybe, maybe not. You do need somebody or some facility to get facts amassed if you do at any point get a complaint. That does not mean to say you have to have anybody permanent or employed or whatever, you just have to have a facility.

1727. **John MacGregor:** Finally, on that point really, would you feel, particularly if there are going to be so very few complaints, on the facts amassing issue, that the Clerk of the House of Lords could do the job equally well and put the facts to the committee they have set up? Just as a supplementary to that, some are arguing that if you have a system like the House of Commons system, it does encourage trivial complaints and there have been a lot of trivial complaints.

1728. **Elizabeth Filkin:** On the first point, I have no doubt that very many clerks could do the job of amassing facts very properly. The problem is whether that assures the public. Sadly, it does not, because the public, wrongly often, of course, because Clerks would do it absolutely properly, thoroughly, fairly and independently, would not believe it. They would believe, because Clerks were employed and have been employed 'inside' for a long time, that they could not be objective. I do not share that view but if one is talking about setting up a system which does assure the public, one has to have somebody who is recognised as independent and there are lots of ways of doing that.

1729. As to the trivial complaint point, people do make that point and yes, of course, some complaints which certainly come through the House of Commons process are about mistakes, are minor and are not serious in any way. Often they require a bit of work to come to that conclusion and a bit of amassing of facts to take that view. I put into that category the complaints I have not upheld. There is a difficulty, as you know. The press will often run all complaints as being serious but they run things which do not go through the complaints system in exactly the same way. You only have to pick up newspapers most weeks and you will find things are run against Members of Parliament which have not been through the complaints system.

1730. On the detail of whether the complaints which the Standards and Privileges Committee have upheld are trivial, often my impression is that people say that when they have not actually looked at the detail of those reports or looked at the detailed reasons why particular complaints have been upheld. Of course on some complaints there will be differences of opinion, but

by and large my impression is that what may seem trivial as reported may have other features which has led to the Committee deciding the complaint should be upheld.

1731. **Lord Shore:** To pursue the same line of questioning, obviously there is a danger, more than a danger, of frivolous complaints, particularly, frankly, as we get very near the period of the next General Election.

1732. One point which might be helpful is if, when complaints are received, there were not an immediate announcement that somebody is under investigation or they are being looked at. That is an enormous embarrassment to those concerned. At the time obviously the charges are wholly unproven, but they are damaging and damaging particularly in the Member's constituency. Is there not a way of avoiding that by your office simply saying that a letter has been received and only if asked about it?

1733. **Elizabeth Filkin:** I totally share your view. We never tell the press from my office that we are investigating a complaint. Many complaints come through my office and the press knows nothing about them until the Standards and Privileges Committee report is published. There have been two in the last six weeks like that. There is one which is going to be considered by the Committee next week which has never been run in the press. That is the usual situation.

1734. Sadly, complainants often tell the press they are making a complaint to my office before I even receive it, and before the Member knows anything about it. I think that is wrong and I share your view that it is quite inappropriate. But it does happen and it happens particularly, I have to say, with complaints from Members of Parliament who do tell the press that they are about to make complaints to me. In fact numbers of them tell the press they have made complaints to me and that I am investigating things when I never then receive a complaint or investigate anything. I think that is sad and I think Members of Parliament do themselves and their institution harm by doing that. Obviously I can in no way do anything about that except continue to express this opinion.

1735. **Lord Shore:** This applies presumably when somebody else has made this public knowledge. Somebody will ring you to ask whether you can confirm that a complaint has been made.

1736. **Elizabeth Filkin:** Yes.

1737. **Lord Shore:** What do you do then? What do you say then?

1738. **Elizabeth Filkin:** The majority of those enquiries, I am delighted to say, I am able to say no, we have had no letter, no, we have had no complaint, no, I am not investigating anything. By doing that I protect very many Members of Parliament from newspapers running things.

1739. **Lord Shore:** But suppose you have received a complaint.

1740. **Elizabeth Filkin:** I was going to go on to say that. Of course I can only say to those journalists, no I certainly have not had one when that is the case. I know in those instances responsible journalists do not then run the story. I have lots of instances of that and I therefore feel it is useful to Members of Parliament. I can only do that and do that properly and provide that protection if I am also truthful to journalists and Members and say yes, Mr Y you are right, Mr X has sent me that letter. I can say no more about it and just because I have received a complaint, does not mean to say there is anything in it. We always say exactly the same thing. We never say anything further than that. We say to journalists "You should be very careful not to imply that because we are doing an investigation that means there has been anything found that is amiss". We use the same term every time.

1741. **Lord Shore:** If a form of words can be found to use which implies almost a rebuke for people making public-

1742. **Elizabeth Filkin:** We do. Certainly the Standards and Privileges Committee made that clear and the Speaker has made it very clear. I obviously welcome that because I totally agree with your view on that.

1743. **Lord Shore:** The second point is this. In our last report, we anticipated the dangers of frivolous complaints and the increase in their number. I think we recommended that where you have been forced to investigate a frivolous complaint and in your judgement it is a frivolous complaint, you should say so because that would greatly discourage those who are making frivolous complaints from repeating it or others from following their example.

1744. **Elizabeth Filkin:** I certainly would do so, but I doubt if I would get that far. As I have said already I do not investigate the majority of complaints which come to me because I either think they are totally off the wall, or frivolous, or foolish, or uninformed or that they appear to be made in the public interests but when I get the facts, it is just not true what has been put to me.



1745. I hope that I would not be investigating anything which I thought was purely frivolous. That does not mean to say that I have not done what I think you may be implying. I have had a complaint which has been published in the last couple of months which was a major investigation. I had to get a lot of information together but my decision at the end of it was that the previous channels which had been used for that complaint and on which pronouncements had been made, were the proper channels for it and that the people who had brought it were not right in bringing it to me because there was a Member of Parliament involved in it in some way. He was not improperly involved in it at all and I was able to say that very clearly. I dismissed that complaint. I did not uphold it or otherwise; I dismissed it. However, I published it because it was a major inquiry to get to the bottom of it.

1746. **Lord Shore:** Whether it led to serious inquiry or not or merely just a checking on your part, if it has been in the public domain and done damage to a particular MP, it would seem to me to be very helpful if you were to offer the MP concerned a statement to the effect that it was a frivolous complaint and ought not to have been made, or was made with quite inadequate basis. In other words, I think Members have to be protected, as you can gather from my line of questioning.

1747. **Elizabeth Filkin:** I totally agree with you. That is why, in the case I have just talked about, which is in the public domain so I can mention it, I decided it was necessary for me to make a formal report to the Standards and Privileges Committee. I did advise them that they should publish it because I felt that to prevent this matter running - and it had run in the local papers - and so the facts were properly known and could be locally published - it was right that my report should be published by the Committee. That is what happened and the Member was very grateful. I think that is a very useful function as well as the other more distasteful functions which I have to carry out.

1748. **Lord Shore:** Moving onto a different area, but really asking you for your experience and reflection now on how the thing is working, I think an awful lot of people who wholly agree that Members have great obligations if they have financial interests both in declaration and withholding actions in parliament, nevertheless I am very surprised that when Members who undertake activities for which they are paid, but which have no bearing upon parliamentary proceedings at all, are as it were complained against and investigated. I have in mind one or two recent cases, obviously Livingstone and John Major. Whatever else was said about their activities as lecturers, they were in no way, frankly, influencing parliament and parliamentary debate in a proper or improper way. Do you feel yourself, in the light of this, that there is an area here - I know you are operating under rules and so on - which ought to be looked at again and perhaps removed?

1749. **Elizabeth Filkin:** I think the first thing I should do is to clarify what the rules actually require of Members, because those two things which applied in the case you have mentioned sometimes get muddled up. The House of Commons requires Members to register all their financial interests. If they earn money from any activity they have to register it. They do not have to say what they earn from those activities. So they can have widespread outside earnings and as long as they list them properly and carefully in the register, there is no complaint which could be run against them at all if they do that.

1750. Because of the deliberations of your predecessor committee in relation to the provision of services in a capacity as a Member of Parliament, the House agreed some new rules to restrict some sorts of activities. You will recall that what the House did was to say that if Members are providing services in their capacity as a Member of Parliament in any way, that does not have to be wholly in their capacity as a Member of Parliament. It might be partly because they used to be the Chairman of the GLC or they used to be an important Minister but if it is partly because they are a Member of Parliament they are then required to deposit an employment agreement. That was mainly, as I understand it and you will know better than I the detail of it, to prevent people who were employed in parliamentary consultancies acting improperly. But it was written much more widely by the Commons own Select Committee on Standards because they also recognised that there were other things which came within that purview to some extent. What they specified in detail in the rules, for example, are broadcasting and newspaper articles. That is given as guidance, as an example. One of the things done in the capacity as a Member of Parliament. Members must deposit an employment agreement about is frequent broadcasts or newspaper articles. The guidance clearly says if you are only doing the odd one, you do not have to put it in the Register. If you are doing them frequently, you do.

1751. In the case of Mr Livingstone, there was a set of things which were complained about which he had not registered. His regular column in The Independent and his regular column in the Evening Standard for example. When I looked at it all, I could see that his regular column for the Evening Standard did not fall within those guidelines at all because it was all about restaurants; it was wholly unrelated to parliamentary or public affairs, which is the test. It was wholly unrelated so he did not have to deposit an employment agreement for the Evening Standard column. However, his arrangements with The Independent newspaper clearly fell within the rules for the deposit of an employment agreement because it is frequent broadcast or newspaper articles. It was a frequent commitment and it was about parliamentary and public affairs.

1752. **Lord Neill:** I think we will have to stop you there, if you do not mind. We have that distinction very clear; you put the

dividing line there extremely clearly. If I may, I am going to thank you on behalf of the Committee for coming and for giving your evidence and being so helpful to us. I am most grateful.

1753. **Lord Neill:** Good morning, Lord Newby. Thank you very much for coming to our deliberations this morning. You are probably aware of our procedure: two members of the committee take the lead in putting questions. In your case, they will be Frances Heaton and Lord Shore. You made a written submission to us, which we have in the record and will be published. Is there anything that you want to say before the questions start?

#### **LORD NEWBY OBE**

1754. **Lord Newby OBE:** No, I do not think there is.

1755. **Frances Heaton:** Good morning. May I begin by turning to your letter, starting with your second paragraph, in which you say that you are in favour of a register of interests and that it should disclose the sources of income and tangible benefits? Could you expand a little on your rationale for that?

1756. **Lord Newby:** Yes. I think that, particularly as the House of Lords gains a higher profile, it is important that Members of the House of Lords are seen to be above suspicion in the way they behave and the basis on which they speak in the House. It is often suggested that, because Members of the House of Lords are unpaid part-timers, the same requirement for transparency that now applies in the Commons should not apply in the House of Lords. This seems to me to be mistaken. Arguably, because we are not paid, we are more susceptible to people offering to pay us to exercise our influence in the House of Lords than Members of the House of Commons, who are paid. I have no evidence that that happens, but that case could at least be made. It is important that Members of the House of Lords are seen to be operating in a very transparent way. An interesting example about how informed opinion is moving on can be seen in the judgement relating to Lord Levy, who failed to gain an injunction preventing a newspaper from publishing his tax affairs, on the basis that his financial affairs were very much of public interest and should be in the public domain.

1757. **Frances Heaton:** I wonder whether you consider that the amounts that people are paid to be relevant.

1758. **Lord Newby:** I think that the amounts that people are paid are relevant. I suggested in my letter that there should be a de minimis level below which no declaration should be made. As many peers are on relatively low levels of income - many are retired and some have given up their previous employment to come into the House of Lords - it can be argued that there needs to be a relatively low point at which income should be recorded.

1759. **Frances Heaton:** One has to go on to explore why one is looking for disclosure. The origins of Nolan lay in sleaze, which was buying a point of view. We have now moved quite a way on from that in terms of disclosure of relevant interests - possibly non-pecuniary interests - so it is really becoming a different point. Against that background, I am quite surprised that you are arguing that disclosure of amounts of income should be required.

1760. **Lord Newby:** I am not proposing that they should necessarily be detailed amounts to the last penny, but it would make sense to have bands of income. The reason is that in recent decades the public's view of politics has been so damaged that the old view - which, I suspect, applied to the House of Lords - that these were senior people, devoted to public business, is not widely held: politicians in both the House of Commons and the House of Lords are held in low regard. One of the reasons for that is the sense that people have been profiteering from their membership of parliament. Against that background, I believe that there is a need for a considerably greater degree of transparency about where we derive our income from than was the case a decade - or two decades - ago. The public require that of us.

1761. **Frances Heaton:** We have had a number of peers coming who have stressed the great difference between the two Houses and have suggested that there has not been the same criticism of the House of Lords from the public. I do not think that there have been any issues surrounding disclosure by peers. Why do you not want to retain the distinction between the two? Those who come to the Lords are likely still to be very different kinds of persons.

1762. **Lord Newby:** The new membership of the House of Lords is rather different from that of the past. Obviously, there are far fewer hereditary peers and the nature of the House of Lords is changing. What is also happening is that ten or 20 years ago the House of Lords was not often seen to have a major influence on legislation. Even when I went in, three years ago, and people were telling me about the differences that the House of Lords had made to legislation in previous years, they were, frankly, very small. As a result, the public has neither known nor cared much about what the House of Lords has done. There has not been the spotlight on the Lords that there has been on the House of Commons. With the change in the composition of the House of Lords and the party in government no longer having an automatic majority in the Lords, as the Conservatives did, and with legislation being changed significantly, the spotlight is being cast on the House of Lords to a far greater extent.

That makes a difference in the way that the House conducts its business, for a whole raft of reasons, and I certainly think that it strengthens the argument for us to be more transparent than was felt to be necessary in the past.

1763. **Frances Heaton:** But there has been quite a lot of emphasis on the fact that it will still be a part-time House and will not be paid, so the disclosure of other interests will be proportionately more of a burden and possibly a total inhibition for Members of the House of Lords.

1764. **Lord Newby:** I do not know why it should be an inhibition. The only circumstance in which it would be an inhibition is if people felt embarrassed about disclosing other interests. If they do feel embarrassed about disclosure, should they be embarrassed about doing it?

1765. **Frances Heaton:** About doing what?

1766. **Lord Newby:** About doing the activity that gives rise to a source of income about which they feel some inhibition in disclosing.

1767. **Frances Heaton:** But you said that it should not only be sources of income, but amounts.

1768. **Lord Newby:** I referred to them in terms of bands. I am not necessarily advocating that tax returns should be made public, but it is relevant whether someone receives £1,000, £100,000 or £1 million from an employer or another source. The public would think that that was a material difference.

1769. **Frances Heaton:** Are you saying that that is material in the context of the likelihood of their being influenced in the way in which they speak?

1770. **Lord Newby:** It will be seen as material in the influence that it has on the person's activities more generally. If I see that someone is earning a vast amount from, say, an insurance company, I might think that that is relevant when looking to see what that person says in the House of Lords in terms of insurance matters.

1771. **Frances Heaton:** As against if he earns a small amount?

1772. **Lord Newby:** As against if he earns a small amount as part of a raft of sources of income.

1773. **Frances Heaton:** Yes, but earning a small amount from an insurance company?

1774. **Lord Newby:** Yes.

1775. **Frances Heaton:** Thank you very much. May we move on to your second main paragraph about lobbying, where you suggest that peers should be debarred from speaking only on matters relating to the interests of clients to whom they give parliamentary advice?

1776. **Lord Newby:** Yes.

1777. **Frances Heaton:** If this were instigated, how would be it be policed?

1778. **Lord Newby:** I think that much of the policing of the detail would have to rely on two things: first, the information that is supplied by peers - that is the most important thing. I regularly submit a schedule to the Clerk, showing the clients of my company for whom I work. I could equally easily add, after the name of the client, a little paragraph that described the services that our company provided for that client. That would make clear what we were doing for them. The second point is that one then has to rely on peers to tell the truth in such documentation. It would not be a practical difficulty for me to segregate out the clients to whom the Flagship Group provides parliamentary advice and those to whom it does not.

1779. **Frances Heaton:** Do you think that the public would concur with the merits of that distinction?

1780. **Lord Newby:** If the public and the journalists could see a register that explained it, I think they could, yes.

1781. **Frances Heaton:** I think that you have seen the list of possible questions that referred to the fact that the Clerk of the Parliaments said that the restriction applied only to the affairs of clients with whom the peer had personal dealings. Is there a difference in interpretation between you and the Clerk?

1782. **Lord Newby:** There are two issues. First of all, there is the distinction between clients with whom one has personal dealings and other clients. The second distinction is between clients for whom our company provides parliamentary advice

and those for whom it does not. The second area is the area of difficulty. In terms of segregating out the clients to whom I give advice and those to whom I do not, by and large that is a straightforward distinction. There are always borderline issues. For example, we have an insurance company as a client, for which I normally do not act at all, but at one point the managing director wanted to give a speech and one of my colleagues asked me to cast my eye over the draft of the speech and to try to improve it, and on one day I spent a few hours looking at it. I shall almost certainly not deal with that client ever again. In that case, I operate in my own mind the de minimis rule and say that that is not a client with whom I regularly work, but by and large there is a clear rule within our organisation about which clients have individual consultants working for them.

1783. **Frances Heaton:** Did you just declare your interest in the insurance company?

1784. **Lord Newby:** I did not declare an interest, because I was not speaking on the relevant issue at the time when I was helping the man to write his speech, so a declaration on the Floor of the House did not arise. In terms of the declaration that I left with the Registrar - where, broadly speaking, I update what I do every three months - it did not appear on the list of clients for whom I was actively working because, between submitting two lists, I had worked with this insurance company for one day.

1785. **Frances Heaton:** Potential for some misunderstanding and adverse publicity, I suppose.

1786. **Lord Newby:** The potential for adverse publicity in a case like that is far less than that for people who work for firms of accountants or lawyers or who are non-executive directors of companies and may have been taken on in some cases to provide parliamentary advice as part of what they do. At the moment they need to make no declaration at all on the register and would only do so if they made a speech on the Floor of the House in the period when they were fulfilling that function. I was not making a speech relating to the insurance industry, so it did not arise.

1787. **Frances Heaton:** You would like to see Category 2 widened to cover those people?

1788. **Lord Newby:** Yes, I would. One of the reasons for that is that, being at the receiving end of lobbying, I have been struck by how rarely the lobbying comes from a company that I would recognise as a lobbying company and how much more often the impetus for the lobby comes from a legal firm. Certainly on the Financial Services Bill, where I was active, I am pretty sure that no lobbying company was involved in lobbying me, or getting a client to lobby me, but I am certain - because I met some of them - that partners and other people working for legal firms were directly involved in lobbying activities on their own behalf or on behalf of clients. At present, if a peer had been a member of a legal firm that was doing that lobbying as an ancillary part of providing general legal advice to a client, it is not clear that they would be required to register in Category 2.

1789. **Frances Heaton:** I think you have, both in your written submission and today, attached more importance to registration relative to disclosure than have many other Members. Do you think that there is a risk, when the House of Lords comes to decide what, if anything, they will do to change the rules, that they will be too inward-looking?

1790. **Lord Newby:** The House of Lords is one of the most inward-looking bodies with which I have ever been involved, and many Members find change - even of a very minor nature - very difficult. Attitudes towards change are in part generational. Older peers and those who have been there a long time and feel that the system has worked smoothly are pretty resistant to any change. I should be very surprised if that applied to most of the people who have been appointed since I was appointed in 1997. We feel that we should be happier if there were disclosure, so that people could not make allegations about peers or generally insinuate that the House of Lords was a rather secretive place.

1791. **Frances Heaton:** That has been very helpful. Thank you very much. I will hand over to Lord Shore.

1792. **Lord Shore:** On the face of it, the rules of the House of Lords on the activities undertaken by peers who are connected with lobbying groups are very fierce indeed, but the caveat is that, unlike the Commons, the rules apply in that form only to peers in lobbying firms that are dealing with a particular list of clients and not to the generality, as I believe that they would do in the Commons. Have you any comment on that? You explained your occasional problem, which I do not think you have found anything like insoluble, but do you think that there is an advantage in the more absolute approach of the Commons on this matter?

1793. **Lord Newby:** That is in requiring members not to be associated with lobbying companies. No one in Category 2 works for a company that simply gives parliamentary advice. I may be mistaken, but most peers in that category work for broadly-based communications companies that have a lobbying strand. The main argument for the difference between the Lords and the Commons is that peers have earned their living over a number of years doing that activity. If the Commons rule applied and we were no longer to be involved in a company that carried out that activity, whether or not we did it ourselves, we should

have to find another career. That is fairly onerous on people, particularly given the stage of their career at which they come into the House of Lords. To say to Lord Bell, Lord Chadlington or Lord McNally, "I'm terribly sorry. You have been doing this kind of work all your life or for a large proportion of it, you have got to go off and do something else or retire" would be unreasonable, particularly because the rules that apply to those of us in Category 2 are, as you said, pretty fierce.

1794. **Lord Shore:** Let us look at the issue from the other side. We have had quite a bit of evidence from peers who say that the rules are rather too tough in the sense that they ban people with considerable expertise - I am referring to both Category 1 and Category 2 - from taking part in debates and from voting. What is your view on that? Do you go along with it, or do you think that we have got it right as of now?

1795. **Lord Newby:** I think that on balance the House has got it right in saying that when peers are actively advising clients on parliamentary matters, they should not speak on them, even although they may be technically expert and able to add to the quality of the debate. At the moment, about the only client I advise on parliamentary matters in the United Kingdom and in Europe is the Caribbean Banana Exporters' Association. I think I can honestly say that, having worked for them for six years, I know more about the details of the EU banana regime than probably anyone else in the House of Lords. It is even possible that I could add to peers' general knowledge about bananas if I spoke in a debate on the subject. However, I think that it would be improper if I did, because, if I did, people who are not my clients at the moment would say, "If we're his client, he'll speak about our subject". That would be paid advocacy. I do not engage at all in paid advocacy for my clients in the House of Lords. I am banned from doing it, and I think that that is right. As I said in my letter, my problem with the current rule is that when I have advised clients on something completely different from their parliamentary work and how they should approach parliament, the ban has applied. I was slightly surprised to see the Clerk's evidence in this regard - which you kindly sent me - that suggested that perhaps I could speak on behalf of those clients. When I have asked about it in the past, the rule has appeared to be absolute: I could not speak on behalf of any client of the Flagship Group - which, among other things, provides advice on parliamentary affairs - whatever advice I was giving them.

1796. **Lord Shore:** Last question. You have made it quite clear that you believe that there should be a compulsory register of interests. Presumably, Part 3, instead of being voluntary, would become part of the compulsory register, but on what principally would you want to see the peers obliged to make a return, which is not at present covered by Categories 1 and 2?

1797. **Lord Newby:** I think that peers should be obliged to make a return that lists all their sources of income. It also seems to me to be common sense that they should be obliged to list their involvement with other organisations from which they may not derive income, but which are clearly relevant. If they are involved in a charity, it seems only sensible that they should declare that as well. Equally, peers who work for companies that provide parliamentary advice ancillary to more general professional advice should be required to follow the same rules as those of us who work for companies that provide parliamentary advice as part of the mainstream of what our companies do.

1798. **Lord Shore:** Thank you.

1799. **John MacGregor:** Can I follow up a point that you made in your letter, to which you have just been referring, in relation to your role in advising the Prince's Trust and the chairmanship of this major football initiative?

1800. **Lord Newby:** Yes.

1801. **John MacGregor:** Is it really right that because of that - an area where you have no parliamentary activity for them at all - you are debarred from speaking on youth unemployment matters generally?

1802. **Lord Newby:** That was my understanding of the rule.

1803. **John MacGregor:** But if a law firm was advising the Prince's Trust entirely on its legalities and that rule had applied to it, the lawyer would not be able to speak on unemployment either?

1804. **Lord Newby:** If that rule applied to the law firm, the lawyer would not, no.

1805. **John MacGregor:** There seems to be an idiocy of the rule on the one hand and the fact that it is not applied consistently to all people who have clients. That is the situation in the House of Lords at present, is it?

1806. **Lord Newby:** That is my understanding of the situation at the moment.

1807. **John MacGregor:** My second question is, on the detail that would go into a mandatory register, one of our earlier witnesses drew a distinction between the need to know and "wouldn't it be nice to know?" Do you think there is a distinction?

1808. **Lord Newby:** No. The problem here is that in terms of Category 3 the rule says that Members can register particulars of matters that they consider may affect the public perception of the way in which they discharge their parliamentary duties. The problem is that what one person believes to be relevant - or not relevant - to their parliamentary duties, another person may think is relevant to their parliamentary duties. The only way to get round the boundary problem is to require people to register everything.

1809. **John MacGregor:** Probably what was meant by "wouldn't it be nice to know?" was "wouldn't it be nice to have revealed in the press just how much somebody was earning?".

1810. **Lord Newby:** Yes. Clearly, there is a strand of journalism that enjoys making fun of parliamentarians whenever it can. They might wish to make fun of how much someone earns. But one should be prepared to put up with that in order to have the greater transparency that I think most people would prefer to see in the House of Lords.

1811. **Lord Neill:** Any other questions? Thank you very much, Lord Newby. It was very kind of you to come and help us with your evidence. We are grateful.

1812. Finally, our last witness of the day, Lord Chadlington, if he will be kind enough to move to the seat. You have been Chairman of Shandwick International for many years, I think. Am I right in thinking that International Public Relations is the title?

### **LORD CHADLINGTON OF DEAN**

1813. **Lord Chadlington of Dean:** That is right.

1814. **Lord Neill:** You have an entry in Category 2 and a number in Category 3, which include educational interests as well as business interests. We are going to put some questions to you. I am going to ask Sir William Utting to go first. Professor Alice Brown, who is listed as a questioner, has not got down from Edinburgh today, so Sir William will start and, if there is anything left to ask - which I very much doubt - I will ask the follow-up questions.

1815. **William Utting:** We have heard a good deal, Lord Chadlington, about the changes that have occurred in the House of Lords since the Griffiths reforms of 1995 - in particular, changes in the composition of the membership. Indeed, one noble Lord said to us that the place was getting more like the House of Commons every day. It is that part of it that I want to seek your view on. We are told that the House is becoming more professional in its dealings, more party political and that there is more whipping. Does that conform to your perception of what is going on?

1816. **Lord Chadlington:** Yes, Sir William, to some degree. There is no question that it is more professional in the sense that a lot of people are being drawn from commerce, the professions and so on. I do not think it has got any better, because the independence of the hereditary peers was a considerable advantage to the House of Lords. The loss of them is considerable. The atmosphere and culture of the House, although I have only been there for four years or so, has changed noticeably. The nature of the relationship and the manners - that sort of thing - has gone - not completely, but they are disappearing quite fast. Therefore the culture is different. In that sense, it is a different place. I personally would not use the word "professional", I would say it was "different". Is it more like the House of Commons? I have never spent any length of time in the House of Commons, but if becoming slightly ruder to each other as opposed to being quite polite is a move in that direction, I regret it.

1817. **William Utting:** Your remark about the changing culture stimulates a follow-up on that subject. It concerns the reliance that is placed on personal honour in conduct in the House of Lords. We all have a sense of personal honour, but basing behaviour on that seems to be possible only within a group that is very cohesive and has shared values. You just told me that that culture has changed. Is it changing to the extent that one can no longer place as much reliance on a common understanding of personal honour as one could in the past?

1818. **Lord Chadlington:** You have to replace the old culture with a new one. The question is, what kind of culture do you want to create in this new, reformed House. When I was thinking about what I might say today, I started at precisely that point of honour, what the personal responsibilities of being a Member of the House of Lords involve and the kind of people that we want to have there. When I thought about that, I thought that honour is a different kind of honour now, if that is possible, a different code of behaviour. That is where I would start from when I think about what people in the House and externally should know about me and my interests. It takes quite a lot of work to decide what culture you want. Perhaps I can address it slightly tangentially. When I arrived in the House of Lords, no one ever told me anything about it - nothing. No one ever said to me, "This is the way it works. This is what the place is like." If someone joins my business, we spend an enormous amount of time inducting them into what the name of the game is, so that they feel at home, enjoy themselves and learn how to use the system efficiently, but at the same time do not break the rules. No one ever did that to me. Maybe I missed some event that

went on over here, but when I talk to my colleagues, they seem to be in the same situation. I should like to create a culture that comes about from the day when it is first suggested that one might become a Member of this House, to learn the obligations that are placed upon one - such as the regularity of turning up - as well as how to behave and what the codes of conduct are to be. I regret that that does not happen.

1819. **William Utting:** I think that we gathered from an earlier witness that at best a new peer might get a half-day's induction into the House of Lords and that a substantial proportion of peers do not take it up anyway. You are implying that a more structured form of induction - dare I say "training"? - might be required of new entrants to the House of Lords.

1820. **Lord Chadlington:** Yes, I would support that. I did not know that this half-day existed, but if it does, it sounds good. I went off to find three or four peers whom I knew from other situations and said to them, "I want someone to explain this place to me". I bored them rigid for a few days until they taught me how to find my way round. It was an unstructured and auto-didactic way to go about the problem.

1821. **William Utting:** Yes. A consequence of this is that some of the things that are required will have to be written down for peers. We would be particularly interested in something like a code of conduct. There is a reasonably brief code of conduct for the House of Commons, which has had to be amplified in rather more detailed guidance. Would you see any merit in the idea that the code of personal honour needs to be amplified now?

1822. **Lord Chadlington:** We have an exact parallel in being the director of a public company, in my judgement, namely, that one behaves in a particular way. Up until very recently, it depended on how you felt you should behave: there was no compliance role. A series of initiatives over the past ten years have come up with the notion of telling the chairman or director of a public company how to behave. That is helpful, but in the end everything has to do with fine judgement. I should not like to see compliance with the code becoming an argument about whether I could dance on the head of a pin; that would again be counter-productive to the culture that I should like to see created in the House of Lords.

1823. **William Utting:** We have certainly been warned by other witnesses about the dangers of prescription and having excessively detailed codes and regulations. On this side of the table, we are well seized of those problems. As an individual, I also agree with you about the importance of exercising individual judgement and interpreting codes. May I move on from the more general considerations that we have been talking about to some of the practicalities of the register? You were here during much of Lord Newby's evidence and heard a number of the exchanges about the effect of Category 1 and Category 2. You have an entry under Category 2, and I am particularly interested in the effect that that has on your capacity to contribute to the business of the House. I ought to say that I have been following the line that I think that these prohibitions are interpreted in a way that is oppressive and inhibits people from making a contribution that might help the House. I am seeking your agreement to that. Do you agree?

1824. **Lord Chadlington:** My colleagues always complain that I overstate my case on subjects about which I feel strongly. I shall try to avoid doing that. I think that they are not only oppressive, but useless. Let me give you a precise example. I am a director of Halifax - the bank. They are not a client of my company, but, for the sake of the discussion, let us suppose that they are and that I am personally involved in the lobbying programme. I have been involved in banking since 1968. If Halifax was a client of my company, I could not speak in a debate concerned with banking; if it was not a client of my company, yet I was a director and had been involved for the same period of time, I could stand up and speak, declaring the interest. Not only could I get up and speak, declaring the interest, but my financial interest is considerably greater as a director of the company than if it were a lobbying client. As a lobbying client, one would get a straight fee over a period of time; if one is a director of a company, one is probably involved in share options and so on, so the value of what one is saying and the share price impetus behind it is very important. If I were the merchant banker advising the bank I could declare the interest and speak. It is just ludicrous. I start from a position of saying that this is not sensible.

1825. In Category 2, I list myself as chairman of the public relations consultancy, as Lord Neill has pointed out, but our public relations consultancy employs just over 3,000 people and we have more than that number of clients round the world. I have no idea who my clients are. I do not know whether I am speaking on a client interest; if I get up and speak, all I can do is to be honourable about it and say, "I do not believe that this is a client in which I have any interest". I might be quite wrong, because while I have been asleep, we have been appointed by a mining company in Australia, and a decision that is currently being taken through the Houses of Commons and Lords is relevant to that company's future.

1826. **William Utting:** In those circumstances, it seems to me that far too much weight is placed upon individual judgement. An individual judgement clearly requires rather more detailed guidance in order to come up with the right answer in circumstances such as those. I really want to know the answer to that.

1827. **Lord Chadlington:** I hoped that you would not ask me that. I start from the belief that too many codes and rules will

make it more difficult to dance one's way through it. It is very important that, when people come into the House of Lords, they understand their responsibilities. That has to be done properly. I do not think that it is improper for me to want to know, when Lord Marshall gets up - a very honourable man - whether he is a director of the company that is affected by the piece of legislation that is being debated. That seems to be a perfectly reasonable thing for me to want to know. But that is all that I really want to know. I do not want to know whether he earns £50,000 or has share options. At present, the rules imply that the standards of honour of lobbyists are significantly lower than those of being a director of a public company; that is ludicrous.

1828. **William Utting:** One register, then.

1829. **Lord Chadlington:** Yes.

1830. **William Utting:** Perhaps one rule that paid advocacy is banned.

1831. **Lord Chadlington:** Yes.

1832. **William Utting:** The register to be mandatory?

1833. **Lord Chadlington:** Yes.

1834. **William Utting:** So the large bit of Category 3 that is at present purely voluntary and on which one third of the Lords do not make any entry becomes mandatory.

1835. **Lord Chadlington:** Yes, that is right. I think one has either to rely on honour or do something transparent. One has either to do nothing and leave it to individual peers to declare the interest or get them to list everything and declare the interest; but I would not include financial information. Those seem to be the options.

1836. **William Utting:** Absolutely. Outside earnings are not included on the register unless they are acquired as a result of paid consultancies, for example.

1837. **Lord Chadlington:** Correct, yes.

1838. **William Utting:** The final thing - you have already referred to this - is that the register should include relevant non-financial as well as financial interests. You quite rightly said that even your trusteeship of Cheltenham Ladies' College might at some time be relevant to the business of the House. Good. That is very helpful. Thank you very much.

1839. **Lord Neill:** Can I take you back quickly to the induction process? You were arguing that there should be a better form of induction. To follow your advice that some people say that you exaggerate a position, could you comment on the suggestion that the traditional way of finding out how an organisation works is just to sit there, watch it and shut up - to wait until you find out how it works? That is how a lot of peers have found out about the House, its code of conduct and so on, and it is really unnecessary to try to teach people: they just have to watch.

1840. **Lord Chadlington:** One can certainly sit and watch; that is part of the induction process. There are several issues. For one's own conduct in the House, one can sit in the Chamber, watch people and see how to behave. Part of Sir William's question was about the culture of the Chamber itself. That is very important. I do not know whether Lord Shore would agree, but over the past four years I have seen it deteriorate quite a lot. I feel that people are becoming much more gladiatorial than they were before. To learn the culture of the House and how it operates, I should have liked someone to take me round, to talk about the process of a Bill and what happens each day, to tell me how the Committees work. The single thing that I have enjoyed most in the House of Lords is being a member of a Select Committee. Select Committees are wonderful things, but how the system works was never explained to me.

1841. **Lord Neill:** Is this too extreme a position? Is the whole concept of a working peer an anomaly? Traditionally, peers were non-working; that was the whole point. They were independent, although they had outside interests, and spoke on things they knew about. The introduction of the concept of working peers - leaving aside the Ministers and the Opposition Front Benchers -

is almost another method of recruiting a House of Commons; instead of electing them by popular vote, they are put in by the Government of the day or nominated by the Opposition. Is that a factor that has changed the character of the House?

1842. **Lord Chadlington:** Yes. I think it is bound to be a factor that has changed the House. What has changed the House as well is a feeling of guilt, therefore, if one does not go. I suspect that hereditary peers who had been there for a long time just bowled up when they wanted to. This has been a bad week for me: I have been in the House only once or twice, and not for long when I was there. I feel guilty about that. There is a different kind of feeling that a working peer goes to the House of



Lords: it is a job and should be treated as such. It is a job that should be done with enthusiasm.

1843. **Lord Neill:** Were you appointed as a working peer?

1844. **Lord Chadlington:** Yes, absolutely.

1845. **Lord Neill:** That carries with it problems. Can I take you back to a point of detail? You gave the example of a merchant banker who was a Member of the House of Lords and involved in a current take-over transaction. Surely he would have to declare that if he spoke on any matter related to that issue, even if it was pending legislation?

1846. **Lord Chadlington:** It might be a take-over, but I was thinking more of him being a banking expert. He would not have to declare the interest of being a banking expert as a merchant banker. I could not get up at all as a lobbyist for bankers, but he could get up and speak, declare the interest and say, "I'm very interested in banking and I have worked in the banking sector". But he himself may be benefiting from the success or failure of a particular transaction in that sector more than I would as a lobbyist. The financial motivation may be much greater in his case than in mine, yet he can speak.

1847. **Lord Neill:** He declares the interest ...

1848. **Lord Chadlington:** But he still gets the benefit, which is what lobbyists miss.

1849. **Lord Neill:** I will see if my colleagues have any questions. John MacGregor.

1850. **John MacGregor:** I am in some confusion about some of the Lords' rules and I am not sure that I have got it right. Do you have any difficulty in interpreting the rule that Lords should be particularly cautious in speaking or voting in cases where they have interests that are "direct, pecuniary and shared by few others"? I think that I should.

1851. **Lord Chadlington:** Yes, I do have some difficulty.

1852. **John MacGregor:** This is most unlikely, but if you were the sole farmer in the House of Lords, it could be interpreted that you could not speak and vote.

1853. **Lord Chadlington:** "Few other people".

1854. **John MacGregor:** "Few other people". I see. I am told that it means "not shared by few other peers". With "few other people" there is not the same difficulty.

1855. **Lord Chadlington:** I did not find the rules clear when I joined. I went off and chatted to them about it, so that I understood them. I was worried about them. If there are rules, they must be clear, so that everyone knows where they stand. That goes back to the point about dancing on the head of a pin. It is clear really: one should play the game according to the rules.

1856. **Lord Goodhart:** I should like to follow up something, because I was not clear what your views were. It relates to paid advocacy. This comes under Category 1 and to some extent under Category 2. Category 1 states that a consultant to a business or business sector who is paid for their parliamentary consultancy cannot speak in the House of Lords on a subject directly affecting that business or business sector. Do you regard the present rule as proper or too restrictive?

1857. **Lord Chadlington:** At the moment it is only drafted to stop lobbyists - if I receive a fee as the representative of a bank and I am a lobbyist. Therefore it is too restrictive, in my view; it should either include others who have similar interests or be disbanded and included in the general list of responsibilities, so that one declares it and says, "I am a lobbyist and I receive a fee for this on behalf of the banking sector". I think that everyone has to be included in it or no one at all. It is as simple as that. As Lord Newby said, it does not take account of the accountants, bankers and everyone else who is in the same business.

1858. **Lord Goodhart:** Is there a danger that, if the rules are relaxed too far, all sorts of businesses and organisations will want to have paid spokesmen in the House of Lords?

1859. **Lord Chadlington:** I so much doubt it. I just do not see it. I do not think that we shall have huge numbers of paid spokesmen arriving on the scene; that will not happen. I was very surprised that Lord Newby said that he did not feel that there was much lobbying over the Financial Services Bill. My experience was exactly the opposite. I thought that there was very heavy lobbying.

1860. **Lord Goodhart:** There was massive lobbying, but I am not sure that he said that.

1861. **Lord Chadlington:** Maybe I misunderstood him, but I understood that he said that not much work was done by lobbyists.

1862. **Lord Goodhart:** I think he said "professional lobbyists".

1863. **Lord Chadlington:** And massive lobbying from professional lobbyists, but I do not envisage that we shall open the floodgates.<sup>3</sup>

1864. **Lord Neill:** Any other questions? Lord Chadlington, thank you very much for that interesting exchange. I am grateful to you for coming. That closes today's proceedings. The Committee will sit again on Monday 10 July at 10am

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**FRIDAY 7 JULY 2000**

**OPENING STATEMENT**

**Opening statement by the Rt Hon Lord Wakeham**

The present House of Lords is a transitional one. Some Members of the House of Lords play, and always intended to play, a minimal part - for them, a peerage is an honour, not a job.

Others see themselves as legislators.

Our report supported the view that what we wanted for the future is a reformed House of Lords composed of Members very different from the Members of the House of Commons - more broadly representative of the British people than politicians can ever be - after all, members of the House of Commons are all politicians. We want people from all walks of life with expertise and experience, and nothing we have by way of regulation should discourage those broadly representative people from giving their services to the nation in the House of Lords.

So I don't differ from what I said in evidence to the Griffiths Committee - a declaration of interest at the time of the debate is vital - absolutely vital.

No Register can take its place and, in some respects, could be harmful. I think I should also say that my wide experience as Chief Whip and Leader of both Houses has never shown me an example of where a non-registration of interest has altered any piece of legislation or altered any Government policy. The present system in the House of Lords works well. It is ideally suited for the present membership and we hope the future membership, which would contain many part-time members.

All Members would be required to declare any interest if they take part, but to ask those who don't would be unnecessarily intrusive.

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2. see evidence.p252

3. see evidence.p252

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