



Northern Ireland
Assembly

Committee on Standards and Privileges

OFFICIAL REPORT (Hansard)

Review of the Code of Conduct:
Lord Bew (Committee on Standards in Public Life)

28 May 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Ms Anna Lo (Deputy Chairperson)
Mr Steven Agnew
Mr Cathal Boylan
Ms Paula Bradley
Mr Colum Eastwood
Mr Declan McAleer
Mr Fra McCann
Mr Ian McCrea
Mrs Sandra Overend
Mr Mervyn Storey

Witnesses:

Lord Paul Bew

Committee on Standards in Public Life

The Chairperson: Lord Bew, you are very welcome. We understand that you will be flying solo today. If you want to introduce yourself for the record and then talk to us about your evidence, we will facilitate questions.

Lord Bew (Committee on Standards in Public Life): I have a brief opening statement. First, I would like to thank you all; I am very grateful for the chance to be here. Ruth Thompson, who is the head of the office of the Committee on Standards in Public Life in London, through some navigational error, is in Shannon airport not Belfast airport. Therefore I am without the support of the most efficient person I have ever met in my life, who has been working on this. Nevertheless, it is better that we go ahead and do not cancel or rearrange the meeting, because you are all very busy people.

As I said, I am grateful for the chance to be here, albeit alone. One reason why I am grateful is that in 2012, before my appointment, the triennial review that governs the work of the Committee on Standards in Public Life reviewed a number of things and significantly reduced our budget. The review also stated — and the Government accepted the recommendation — that the Committee should not inquire into matters related to devolved legislatures such as here, Scotland or Wales except with the agreement of those bodies. Everything that I say today is in that spirit. There are certain things that it might be useful for you to discuss with me today, but, fundamentally, the decisions are yours. Your commissioner's role is not the same as mine. We will come across that, and I will try to explain why it is not the same, even in the sense that it is not the Belfast variant of the London role. It is a different sort of role, as, indeed, your commissioner has made clear. He has a different role from that in Scotland as well.

The objective of the Committee on Standards in Public Life in London is to maintain an overview of ethical issues across public life. The Committee's first report famously set out three common threads to ensure that the seven principles of public life are properly understood and integral to the conduct of individuals in public life and the culture of public sector organisations: codes of conduct, independent scrutiny and guidance and education. I should explain briefly that the seven principles, known as the Nolan principles of public life, are selflessness; objectivity; openness; honesty; accountability; integrity; and leadership. We will come back to the descriptors later and look at how we have refined them. There is debate — it comes up in response to your document — about the descriptors. However, that is where we are.

We consider it good practice to review codes of conduct regularly, as you are doing, in order to learn the lessons from administering the code and changing expectations and standards. My Committee welcomes the extent to which the document that we have seen draws from the recommendations in our report 'Standards Matter' and your emphasis on providing both aspirational principles and enforceable rules. 'Standards Matter' was produced in January 2013, and was the last major document of the previous Chairman, Sir Chris Kelly. The subtitle is a review of best practice in promoting good behaviour in public life, and I will probably make some reference to it. Although the work of the previous chairman has been of significant guidance to me in what we are trying to do in the Committee on Standards in Public Life in London, I have changed some things or put different emphasis on some points. However, there are many points in here that I have tried to follow faithfully.

Our response is confined to issues of principle and areas of recent changes in standards or expectations, as we consider that practical issues about the clarity of guidance are best resolved on the basis of the Northern Ireland Assembly's Committee on Standards and Privileges. In other words, we do not consider that it is valuable for us to intervene in some of the practical issues. It is your key problem. However, there is one issue of principle that I would like to emphasise, if I may, and that is the seven principles of public life, which are widely recognised as providing a common set of standards for those who serve the public. As such, we have reservations about amending the descriptors or the principles, as 'Standards Matter' offers some new descriptors.

Of course, we have absolutely no difficulty with your adding additional principles or elaborating in guidance how they apply to Members. I should explain what I mean by that. This was our most revised attempt — January 2013 — to give you descriptors of what is meant by selflessness, objectivity, honesty, integrity, accountability, openness and so on. I do not want to sound dogmatic. I am already open to the view that the descriptors could be modified. Take integrity, for example — a problem that was very visible at Westminster in the past year — where the emphasis is on decisions that a Minister might make and on the undue influence of money that led him to make such a decision.

One of the things that you saw in the past year in and around Westminster was that what was at stake was not quite so much a decision as such, for example HS2 or the Government's position on AstraZeneca. One of the things that the lobbying crisis revealed during the past year was an element of what might be said to look like the selling of advocacy futures — you might even say fantasy futures. In other words, a Minister being lobbied might say, "Bung me £10,000 and I will do that for you." Some of those cases appear to involve issues where foreign governments in particular want advocacy or a platform of some sort in Westminster. There is no decision here at all; it is advocacy rights essentially.

It is fundamentally important for Parliament to defend its integrity. The Parliament of the United Kingdom has a certain standing in the world, so the idea that you could influence all-party groups, for example, through the application of serious money is a problem. I am not completely convinced that the descriptors should not be modified to broaden the discussion of integrity away from being merely about a Minister's decisions to the broader issue of advocacy rights, which seems to be part of the problem in the past year. I am not saying to you in some fanatical, fundamentalist way that the seven descriptors that we committed ourselves to 18 months ago will never change. What I am saying is that, for the time being, they are widely recognised by the public and that it is pretty clear what they mean. There is room for debate, and, over time, we might modify those descriptors again in another document like 'Standards Matter'. There is another issue about whether delivery ought to be a Nolan principle.

At the moment, and as a practical matter, we have seven principles that are pretty well understood — like the Ten Commandments. Although we can have a debate about it in future and will be flexible and keep it constantly under review, at the moment we think that it is wisest to keep it within the framework of the existing descriptors. That is not because I have some intense, ideological

commitment to them or am inflexible about what might develop in future, but that is our view as a Committee.

On lobbying, which is at least partly a problem for you, or, at least partly an issue for you — I am not so clear how deep the problem is here — we published our report on strengthening the transparency of lobbying in November 2013. We issued a call for evidence from the lobbying industry, charities, campaign bodies, academics and think tanks and had a particularly valuable seven-hour session in London at which members of the press were present. It is a major issue in London, and the Prime Minister has said that the abuse of lobbying has contributed to a lack of trust and confidence in political decision-making.

Our report applied the Nolan principles to lobbying and concluded that more needed to be done to guarantee greater openness and transparency in lobbying and to provide greater clarity on the standards expected of public office holders. It made certain recommendations for enhancing transparency.

Let me say, straight away, that we are well aware of the fact that decades of work of enhancing transparency in various areas — going back two decades with our Committee — has not had a magical effect on public trust. We are well aware of the fact — I will just say this as it is valuable — that it is perfectly obvious that a great labour has gone on in British public life to increase transparency. One example is the question of party political donors. I was at an Organisation for Economic Co-operation and Development (OECD) seminar last autumn, and the United Kingdom was the best for transparency in party-political donations — right at the top of 47 OECD countries. However, there is one problem area, which is where we are now because of the rules on political donations here and the formulations on disclosure not being the same as the rest of the United Kingdom. Nevertheless, the UK is at the top for transparency in party-political donations. However, I suspect that if we polled the British public next week about the transparency levels of party-political donations, you would get pretty dim and dusty figures.

Transparency has not magically increased trust, whatever trust may be — that is, of itself, an interesting concept — but it is unavoidable. We take the view that you will not be able to defend the public life of the country without transparency. Anybody who thought that all Lord Nolan needed to do 20 years ago was to implement measures of transparency for the public to stop being so cynical about politicians would have been wrong. That does not mean that there is an alternative; there is certainly no question of that. Our Committee recommended measures to enhance transparency in lobbying. As regards Parliament, we also raised special concerns about issues relating to Chairmen of Select Committees. One of the great changes in Parliament during the past few years has been the emergence of Chairmen of Select Committees as being far better known than most junior Ministers. They are elected by the whole House. They have a standing, whether it is Bernard Jenkin, the Chairman of the Public Administration Select Committee (PASC), to whom I have a particular responsibility. I have had one hearing and have another shortly.

The new Defence Committee will have a new Chairman, and there is a great deal of media attention on that. The role of Margaret Hodge's Public Accounts Committee is something that we have been involved in. All those people now have a significance in public life in the country and in Parliament that they did not have when we were first drawing up documents 20 years ago. We have suggested that you have to look closely at their relationship to lobbyists. That is something that the House Committee is looking at. As a consequence of our report, Sir Kevin Barron's Committee on standards has taken up and is looking at the question of Committee Chairs and what is to be done.

The other major thing that has happened, pleasantly, to my surprise, is that the House of Lords has essentially accepted our recommendations for the House of Lords. It is essential. You need only glance at the newspapers to realise that Parliament's problems have not been just with elected Members. I will put it no higher than that. There have been cases that affected the House of Lords. The House of Lords has just accepted our document on lobbying.

Nevertheless, as we say at the beginning of our document on lobbying, lobbying is part of the healthy lifeblood of any democracy; it is simply a question of ensuring maximum transparency. Without it, we would not be as well informed as we are. I would not be as well informed, to take a simple example, on the medical and health matters that come up in the House of Lords without the various lobby groups in that field contacting me. There is a perfectly legitimate role for lobbying groups as part of the democratic life of a country. It is not just legitimate; it actually enhances our democracy. It is just a question of ensuring that the public does not have reason to believe that undue weight is given to the power of money behind the scenes.

The public is strongly inclined to believe us in Britain. We recently published our Eurobarometer, looking at all European countries, citizens' actual experience of corruption and how corrupt they thought their country was. Some Europeans — the Italians, for example — say, "I'm not sure we have a very clean system, and, yes, quite a lot of us have had to bribe people at certain times to get things done". The Dutch and the British have virtually no actual experience of corruption; they cannot say that they had to bribe anybody. It is very low. The Dutch deduce from it that their system is clean; whereas the British deduce from it that their system is pretty bad, they just do not know about it. We have a particular public mood. The Eurobarometer is quite interesting, showing the gap between people's empirical experience of their country and what they believe is actually going on.

I want to refer to a couple of other pieces of work that we have done and then continue. You have a long section in your document on Members' staff, but my Committee, as you will be aware, did not consider that it had the necessary expertise to comment on such questions in detail. However, our Committee has stated previously when considering MPs' staffing in our document on MPs' expenses and allowances — which I have brought with me — that it is important as a matter of principle and good practice that there should be broad parity of treatment of staff and that a code of practice backed up by appropriate training and HR support for Members is one way of achieving that.

Since our response was drafted, we note that the House of Lords Committee for Privileges and Conduct has issued a report that a new code of conduct for Members' staff should be introduced. The proposals include provisions relating to a requirement to abstain from lobbying or using access to Parliament to further outside interests in return for payment or other reward, a requirement to register all employment, any financial interests in businesses or organisations and any gifts received above £140 in value that arise from their work in Parliament. Breaches of that code could result in the individual's parliamentary pass being removed.

I want to conclude by talking about a couple of other areas of our work; I then want to hear your questions. We are producing two documents. One is about ethics in practice. It is about the grasp of ethical education across the public sector, not just Parliament. You realise that there is a controversial point about MPs and their relationship to broader ethical questions. We will publish it in about a month. The question of ethics in Parliament and across the public sector in general is something that we feel we have to deal with head on. Moreover, we are publishing a major document on the new mix of public/private and the way in which many public services are now carried out by private concerns. We are discussing the ethical world in which the new mix of public/private providers provide services to members of the public who often have no alternative. Those two documents are forthcoming.

I am anxious that you understand the difference between my role and that of your commissioner, Douglas Bain. He has been asked to look at individual cases: we do not do individual cases. The reason why I stress the nature of our work is to point out that we focus on general issues. We do not do individual cases; I have no expertise to offer with respect to individual cases. Take the recent drama of the Maria Miller case. Because the nature of our body and our title — Committee on Standards in Public Life — are quite close to those of two parliamentary standards bodies that were involved, the public rang us endlessly asking what we were doing and why we were not doing it. The answer was that we were doing nothing.

The triennial review to which I referred earlier specifically says that it is not the role of the Chairman to rush into TV and radio studios to comment on such cases. That drives the people who run TV and radio studios absolutely mad. "You are the Chairman of the Committee on Standards in Public Life, so why are you not down here telling me whether Maria Miller should stay in office or resign?" That went on incessantly for 10 days. However, I took the job on the basis of the rules that governed the job and that it was no longer our business to be involved in the work of devolved Assemblies without their agreement and consent. Similarly, I took it on the basis that I was not going to be rushing into television studios in these cases. There is a very good reason for that: you can get it wrong. You might remember some of the alleged cases over the past 18 months. Something that looks not so good may not be quite so bad when it is clarified. You compromise your office if you get it wrong. I said nothing about the case until Maria Miller had resigned. I then went immediately to the 'World at One' studio to talk about the implications of the case for the values in public life that we are supposed to be defending. However, at no point did I speak during the eight or nine days in which she was in trouble.

I can see a media expectation that your commissioner, Douglas Bain, should respond to individual cases where people have complained about things that MLAs have done or said. I cannot offer much advice or refinement in that area. I understand from talking to him how he sees the future developing in what he thinks is the best possible way, but, as far as individual cases and issues that relate to

individual cases are concerned, I do not have much to say. In fact, it is more than that: I am effectively forbidden from addressing individual cases in order to preserve the integrity of the office to defend the general principles.

Sorry to go on, but I felt that, if I stuck to my opening statement, I would not be in danger of Ruth telling me five minutes from the end of the meeting the things that I should have said, as normally happens. I have at least put some things on the record and hope that I have not forgotten too much.

The Chairperson: A number of members have questions for you. I ask members to keep questions relatively brief. Hopefully, we will get answers that are relatively brief as well. If there is any further documentation that you want to provide the Committee with afterwards, we will be happy to receive it; that would be good.

I have a question around the issue of principles and rules. In your submission to us, you welcomed the emphasis on providing aspirational principles and enforceable rules that complement each other. Can you make clear to us what you see as the difference between the aspirational principles and the enforceable rules and what the relationship should be between them?

Lord Bew: I can understand why you are moving towards having a clear-cut set of rules. We have no problem or difficulty with that approach, especially if there is a sense that they lack clarity. The fundamental thing is to look at any rule that you might adopt and ask, "Is it physically in discordance with the principles?" The job is to ask, "Have we suggested a rule that means that we are not defending honesty, accountability or integrity?" However, you have a set of very specific circumstances here. You have issues that are not going to appear the same way throughout the rest of the United Kingdom. I know enough to know that. Therefore, I think that, from your point of view, the way to go is to aim for a clear set of rules and just have the principles there as a backdrop. I can well understand why the drive is on from your end to modernise and clarify. We have no problem with that at all.

The Chairperson: So, you do not necessarily think that every principle should have a corresponding rule. You are happy enough that —

Lord Bew: No, I do not. I am the worst fetishiser of the principles of public life, but I think that that is for our work. Sometimes people ask us to engage in issues. One thing that we did a lot of work on was party political funding. There is a moral dimension to this. It is related to the work of our committee. We produced a major document on it that, to put it this way, is not going to be implemented before the next general election. It is very much within the boundaries that we debate. It might well be returned to after the general election. However, with public opinion of politicians so critical in Britain, it is hard to imagine them paying more for their politics at the moment. Having said that, I have no doubt that that is a really important document that is alive in the sense that everybody knows that we have a difficult situation. It is not going to be picked up in the short term. It will be part of the debate in future; that is where it sits.

We were asked to do it. I have this slight reservation. The Prime Minister asked us to do it so we are going to do it. My reservation is not about the quality of what we produced or its viability intellectually. It is because what I call old-fashioned trade union donations to the Labour Party, which is the easiest one, and old-fashioned business donations to the Conservative Party are not moral questions of the seven principles of public life. You can say that, in practice, things have gone wrong when the unions have money in the Labour Party, but, in principle, it is not a moral question.

I have already said this, but I would like it to be a principle of our work that we do not do things that are morally significant, which this is. This is a good document that we have produced. As regards our principles, I do not see what is morally wrong with, for example, the old-fashioned way that the Labour Party funded itself. You may think that lots of things are wrong with it. You may have a political judgement or philosophy that trade union donations and so on are wrong. You may have lots of good political arguments. However, I am talking about honesty, integrity, accountability; do you see what I mean? I do not see the moral wrongness of it.

I accept completely that we have a system today that, for a variety of reasons, has a taint around it, but, as I said, I am almost a fundamentalist about the seven principles and getting our work back to the seven principles. It is a general point of view, but not to the point where we say that there must be some one-on-one with anything that the Northern Ireland Assembly thinks is a rule. The type of issues that I am sure that you are thinking about — because it will be based on experience of cases that have

come before you or been around you in the last two or three years — do not actually fit neatly with the seven principles. Fundamentalist though I am on the seven principles, as I have just explained, I am not that much of a fundamentalist.

The Chairperson: I think that you are right in your view of where the Committee is heading in separating the two out and having a cleaner document. Although we have not made any final decisions, that is probably the view of the Committee. On that basis, if we are trying to be a bit more prescriptive with the rules that we have in our code, do you think that there is value in having a catch-all rule about not bringing the House into disrepute or something along those lines? Is there value in that rule, or is it unfair to those individuals because they have not broken any of the rules above and it is sort of, "Oh, we will get you on this one then".

Lord Bew: To answer that with accuracy, you would have to know what you decide on in the rules above.

The Chairperson: But I suppose that there is no way of always covering every possible scenario in the rules. Therefore, the question is, should there be a —

Lord Bew: This is where I suppose that there is a value in saying as a backdrop that, in deciding on the specific rules, we have also had in our mind the seven principles of public life, because the seven principles of public life would possibly cover a gap in that light. However, life is like that. Things happen and, once they happen, everybody says that it was wrong, but they did not think about it the year before. I have already given an example of that when I talked about how our definition of political integrity is related to money, lobbying and ministerial decision when, actually, what went wrong in the following year, after we published it, was not related to that at all; it was related to what I call the selling of advocacy rights. Everybody says, "Oh, that is wrong too", but nobody saw it. The very able people who drew up the document defined the problem more narrowly than it actually turned out to be.

I see your problem. It is always inevitable in the complex world of Northern Irish politics that something may emerge that is not covered by your rule, but at least if it is not covered, first, by your rules and, secondly, by some broad adherence to the principles of public life, it is a pretty lucky customer. You cannot say, "Either you have adhered to the principles of public life or you have not". We have laid out what we want.

The Chairperson: I suppose that the difficulty comes if you have separated the two out and you are saying that your principles are not rules. Your principles are things that we should all aspire to, and we give a nod in that direction in our code, but if they are not enforceable rules then it will not help —

Lord Bew: I get your point, but it is very difficult for me without seeing your final list of rules, which you have not agreed, to see how serious the problem is. I am reluctant to say at this point that I have anything of value to say on the question that you are asking me, which is whether there should be some general rule on letting down the House as well. I would have thought that your rules would largely be defining various bits of letting down the House, as it were. Sorry; without seeing the final definition of the rules, I cannot give you a definitive answer.

The Chairperson: That is fair enough.

Ms Lo: I will add just a couple of short questions. I understand what you are saying about us not trying to change the descriptors of the seven Nolan principles as understood by the public, but, in your submission to us, you said that if we have any additional principles, we should separate them from the seven principles. Why?

Lord Bew: Let us suppose — I mentioned one earlier that is a genuine area of debate in London — that we should have delivery. We do not at this point. It is an example of a possible other principle that we do not currently have.

Ms Lo: For example, in Northern Ireland, good relations is a big thing for us that we should all adhere to.

Lord Bew: When the office is responding, it is responding from a perspective that is very much governed by the work of the CSPL in London. Maybe because I live here and so on, I am no longer involved in these matters in and around the Assembly and so on, while [*Inaudible.*] was much more

so. I am relatively relaxed as long as it is clear. What I really want and would be very happy with is for you to flag up, as you are currently doing, where you stand on the seven principles. You could then say that, in the context of Northern Ireland, there are certain things in your mind that are of particular importance. Personally, I am quite relaxed about that. It can go beyond the seven principles.

Ms Lo: 'Standards Matter' says that, whenever possible, a code should be framed positively. Can you explain what you mean by that?

Lord Bew: 'Standards Matter' represents a moment 18 years into the life of the Committee on Standards in Public Life where something like 10 or 11 regulatory bodies exist in London. There is a separate one for expenses and two that were involved in dealing with the Maria Miller case. There are three that are very visible on Westminster alone. I have not counted them all, but I have been told that there are something like 12 bodies set up as a result of recommendations by our committee over the years. The strong sense and tone of the document is "Enough already". I said that the resources of my committee had been cut back, and part of the reason for that is the general Whitehall squeeze on public expenditure. Part of the reason is a not unreasonable view on the part of government that you have set up all of these other committees and you do not have to do that bit of work any more because you have set up that committee or the other committee to do it and that, therefore, you do not need quite as much of a slice of the cake.

So, we are in a place where there is a certain jadedness of tone about new regulatory institutions. I have been there for almost a year now, and I have not suggested yet another new regulatory institution and have no intention of doing so. Our whole approach now is not to suggest new rules, new regulations and new institutions to enforce better behaviour. Our whole approach is to try to canvass on first principles across the public sector, and, again this is the difference between my role and that of your commissioner. We have a responsibility across the public sector. The first thing that I was most involved in was policing. The first document that came out under my chairmanship was on police statistics. Our whole approach is to talk about embedding and people getting it in their head and canvassing across to make sure that people in the public sector know that this is what you are expected to do and achieve and not to establish yet more bodies or even yet more regulations.

That is why we are doing the ethics document in the next month. That will be controversial because some of the people who it is addressed to do not think that they need to be talked to about ethics. They think that they already know right from wrong; and, by the way, I get it. I know why they think that they already know right from wrong, but I still think that we as a committee have a duty to say that there is a need for a stronger ethical awareness across the public sector. It actually exists in parts of the public sector, and it exists even in parts of the private world, and it works quite well. That is where we are. That passage is getting at the importance of getting it into people's hearts and no longer saying, "If you do not do this, the regulator will get you". We have done that enough and are coming down with regulators in London. We are coming down with systems of rules. I know that you want to clarify, and I think that you are going this way anyway. The simpler and more straightforward and clear-cut they are, the better.

Mrs Overend: Thanks very much, Lord Bew. As you said, we seek clarity. One of the difficulties that we have with a lot of the complaints that come to the Committee is identifying when a respondent is acting in his or her capacity as an MLA.

Lord Bew: I know.

Mrs Overend: As a matter of principle, how do you think we should define that or draw a line between private and public life?

Lord Bew: I am open to the argument that a way out of a difficulty that, I understand, the Assembly has, where the public might reasonably perceive that a Member was acting as an MLA, may be through the wording. I am not quite sure that it will resolve it. I am aware of cases in the past when that issue, in principle at any rate, was there. It may be that that is a way out.

It is not just a question of whether they are acting as an MLA. In many cases, of course, including in some of the controversial ones, people say, "I was acting as an MLA, and that is it. You may not like what I did or said on that occasion, but I was acting as an MLA". I realise that, in cases in which Members are not as frank as that, it might be helpful for the language to state something like "where it is perceived that they are acting as an MLA". It might be necessary in cases in which somebody says

that they do not have anything to discuss because they were doing something in some private capacity.

The Chairperson: I suppose that the difficulty comes in at a political event if the individual was invited as an MLA or a political representative. They could not necessarily claim that they were acting in a private capacity if they were at a political event by virtue of the fact that they are a politician.

Lord Bew: There are certain things that are a bit different in the political culture here. I do not think that the political culture in London quite tolerates the concept of elected persons acting in a private capacity in the way that, theoretically at least, it is all right here — if I could put it like that.

Mrs Overend: I will follow on from that. In 'Standards Matter', you state:

"it is important to recognise that there can be circumstances in which private behaviour can affect the reputation and integrity of a public institution ... Such intrusion should only happen where there is a clear public interest to justify it, and should always be proportionate."

Under what circumstances do you believe that it would be in the public interest to investigate conduct related to the private life of the Member?

Lord Bew: We drew attention to that because of the substantial part of your document that related to the question of the private. We took a view and used that language.

We talked for quite a long time in the office about how we should respond to that section of your document and went back to our take on it. The advantage of what we did is that, of course, it does not discuss individual cases. I am perfectly well aware of the sort of individual cases that might be in people's minds, but I would like to stand over the language that is used in 'Standards Matter'. To go beyond it would require me to talk about individual circumstances, and, even if I talked about individual situations without naming names, it would be rather against the rules that govern my job to do that or to get into that.

We spent quite a lot of time looking at that section of your report, and there is a reason why we quoted 'Standards Matter' at that point in reply. I would like to stand over that and not go beyond it, if that is all right.

Mrs Overend: We did our best to draw you in. *[Laughter.]*

Lord Bew: I know you did. It is fair enough. That caused quite a lot of anguish over coffee in the office about two weeks ago.

Ms P Bradley: Another issue that has arisen for the Committee is the right to free speech. 'Standards Matter' recognises that:

"For political office-holders the right to freedom of speech under the European Convention on Human Rights places some restriction on the extent to which some behaviour which might otherwise be perceived as inappropriate can be sanctioned."

What is your view on political office holders such as us and why we should be treated differently from other pillars in public life?

Lord Bew: I have been much involved in that at Westminster. The first point is that I think that what is said in the Chamber should have absolute privilege — your Chamber and the Chamber in Parliament. There is a complicated subsequent question as to the reporting of that. That does not have absolute privilege, and the privilege Committee that I sat on in Westminster did not recommend that as an absolute privilege. There is a slight problem with that in that you can hear somebody saying something on the parliamentary channel, yet the press is reluctant to report it as they know that they do not have absolute privilege. They do have the lesser forms of privilege in that one would have to prove malice in what they were doing if they reported it. As I understand it, they have qualified privilege. I think that it is entirely correct that Members have the right of absolute privilege.

We have had a recent debate with the Hansard Society on public attitudes to the standing of Members of Parliament and what they can and cannot do. One of the things that came out of that is that the

public believe that, if you are an elected Member, that is a special privilege and you must be prepared to make certain sacrifices. For example, I speak now as a person who for most of his life has been a university teacher. A university teacher is on the public payroll. Quite a lot of university teachers are paid quite well, probably more than Members of Parliament. Lots of them are great people and so on, but some are not such great people and do not deliver dramatically. The public do not believe that university teachers, who you might say have an equally privileged life, have some special, extra tax on them because they went into that job, yet the public do believe that about Members of Parliament.

I draw attention to that as I am not convinced that it is totally fair if somebody has a relatively comfortable job, if you see what I mean. However, it is a fact: the public do not believe that university teachers bear a special tax because they went into that job. There are lots of other quite privileged people in comfortable public sector jobs — not nurses and not those with top-end jobs in the public sector. The public do not view senior local government officers, which is probably not the most exhausting role — I do not know — or public sector employees in general, some of whom would be reasonably well paid and have reasonably comfortable lives, in that way, but they do think that Members of Parliament have an extra tax to pay as they are elected and owe more.

The other side of the coin is that, if they believe that, one of the reasons why that might be a viable argument — I am uneasy about that argument for the reason I have given — is that the people who speak in the Chamber must have an extra privilege. That is the one extra privilege that people who speak in Parliament have and nothing should be done to reduce that right.

I would go slightly beyond 'Standards Matter' in tone and in what it says about what Members of Parliament can say. However, it remains the case that, outside the Chamber, you are in the same position as everybody else. That is the reality, and you have the same responsibilities under the law as to what you say and do not say. I have defended people's right to say things in the Chamber, which I am sure that I would ferociously disagree with, with no legal penalty. However, outside the Chamber, they are in the same position as everybody else under the law.

Mr I McCrea: I would like to ask you about complaints of bullying and harassment. We are always referring to 'Standards Matter', but it acknowledges that those issues can be particularly complex. It states:

"Organisations where elected members work alongside employed staff need to have agreed procedures in place establishing who has the authority to investigate and adjudicate on complaints, what sanctions can be applied and by whom."

Obviously, the code is one avenue through which complaints can be investigated. Given the formal nature of the commissioner's investigations and the fact that the Committee publishes all its reports, the process will not always be satisfactory. Do you think that, in the first instance, organisations have a responsibility to investigate those sorts of complaints in a more informal and sensitive manner, before complaints under the code of conduct are considered?

Lord Bew: I get the point. I always have a bias in favour of attempting to sort things out, to use your words, in an "informal and sensitive" way. However, in my introduction, I said that we take a strong view, as a Committee, that, as a matter of principle and good practice, there should be broad parity of treatment of staff.

Secondly, I drew attention to the fact that, in the past few days, the House of Lords has produced, through its Committee for Privileges and Conduct, a new document related to issues around members of staff. I notice that the Committee Clerk noted that, and we will make sure that you get it. There is a fair amount of detail there. It is certainly the most recent document on this issue to be produced at Westminster. It has actually been published within the past week. I hope and I am sure that you will look at it, because it may, in some ways, be helpful to you.

Mr Boylan: Thank you very much for your presentation so far. I wish to have some clarity on Members' staff. Should they have their own code of conduct or should Members be accountable for them?

Lord Bew: The implication of the new document from the House of Lords is that they should have their own code of conduct. Although I have just said that we have produced a new document that might be interesting, the truth is that the Lords and their staff are in a different world from here. For

example, peers who have staff pay for that out of their own pocket. I guess that nobody around this table is personally doing that, so that alone means that you are not comparing like with like.

All that I am saying is that we will happily pass along this new document, which came into the office just a few days ago. However, you cannot deduce from a particular House of Parliament what is appropriate here. That is all that I can reasonably say, because it is just totally different.

Mr Boylan: You have done a report on strengthening the transparency of lobbying. Do you believe that it should be mandatory in our code to record and publicise meetings with lobbyists or should it just be a guide to best practice?

Lord Bew: I think that there is a case for people to publish, every three months, their meetings with lobbyists. That is my personal position, and it is based on my experience in London. It is not based on any realistic understanding or insight into the situation in this Parliament. However, I think that there is a case for doing that. Again, I do not think — as I have said before — that these greater measures of transparency remove public disenchantment. They clearly have not. However, I am equally convinced that without them, you cannot get on the right side of —

The Chairperson: Are we ever going to get round that? If the public perception of politicians is so bad, irrespective of the massive strides in increasing accountability and transparency in recent years, is it realistic to expect the public to suddenly think that we are all doing a good job and we are all squeaky clean? How can we ever deal with the public perception? Surely, we have to deal with the reality of it. If the reality is that there is not a lobbying issue here in Northern Ireland —

Lord Bew: That is why I was careful to say that I was not saying what I said on the basis of any sense of that; I said what I believe is right for —

The Chairperson: Were a lot of the positions that you have adopted not based on the public perception and attitudes as opposed to the reality?

Lord Bew: What you are asking me, Chairman, is at the very heart of everything. Your commissioner's job and your Committee is different from the ones that I have been working with through my job in London or the other regulatory bodies that, over time, Lord Nolan's Committee set up. Nonetheless, we are all plunging around in this problem. That is what you are asking the question about. I indicated to you what I think is the problem.

I should say that the triennial review, which made the changes involving devolved Assemblies and other changes that I referred to about Chairmen not rushing into television studios and so on, states that, because of the way that public opinion is, Chairmen should not set themselves the target that, three or four years from now, Parliament and people's assessment of Members of Parliament will have gone up in the polls. That is just back-breaking given your point and where public opinion is. I have accepted the job with a kind of invocation to be modest in what you can achieve and with a view to not go racing around the place trying to revolutionise the public's opinion of politicians. That will not work.

I accept all that and the gist of what you are saying, but let me add something. There is a couple of things that I think are worthy of special concern. The first is that, if you look at our polling — we polled massively on that issue — and other recent polling by the Hansard Society, you will see that we are possibly moving away from a situation in which, in the United Kingdom generally, the public always thought quite ill of individual MPs but believed in the institution. They believed that Parliament was more than the sum of its parts and that, although there are of course some issues, Parliament is more than the sum of its parts. For a variety of reasons, one of which was the way in which the expenses scandal made it harder to argue that it was just a few bad eggs or a few rotten apples, some of the polling would suggest that we are moving beyond a kind of expanded outward cynicism about Members of Parliament because of the expenses crisis to a cynicism of Parliament as an institution. I think that that therefore creates a special problem that you have to bear in mind.

It is also about common sense. In 1944, the British people were polled. Whatever your view is of British history, in 1944, they had held back Hitler for four years and the political leadership was on the verge of invading France, winning back the continent and pushing Hitler out and so on. You could say that that was a heroic moment in British history, yet a third of the British people who were polled at that time thought that their MPs were just out for themselves. Just bear that in mind. Even at a time when everybody, whatever their point of view, said that they were not doing badly and that people look

back on with a certain amount of patriotic feeling, a large chunk of the British public felt that MPs were feathering their own nests.

Going back to your point, it is not that easy. Bear it in mind that you have to have that degree of common sense and the common sense that my appointment documents enjoin me to hold. That basically states, "Don't break your back trying to change those figures; they are not going to change very much. Just continue to do what you think is the right thing and continue to advocate for Parliament the changes that are right". Let us say for example, that, in the next Parliament, more attention is given to ethics awareness among MPs — the CSPL has played a key role in that argument — we should not expect the public to say that that is great and so on. Just do it. That is my approach.

I get nervous when I see figures coming through that show that it is not just the individual Members but the institution. The all-enveloping nature of these crises in public standards in recent years is developing into a new kind of thing. The BBC has suffered. Suddenly, it is not just Parliament or a couple of people making some mistakes. It has become "What were you doing about Jimmy Savile?" or whatever. It is not just Parliament alone. Something is happening because of the all-enveloping nature of these crises and the broad institutional contamination. I get your point, but I am just saying that, from my position, you cannot afford to feel comfortable about that. You cannot afford to say, "Oh well, people are always a bit grumpy". Something else is happening here that is a bit more worrying than that.

The Chairperson: That was my fault; I brought in the perception issue instead of sticking to the quote.

I will ask you one question before I go to Fra. In response to Mr Boylan, you mentioned that you felt that it would be appropriate for the details of meetings with lobbyists to be released every three months or over a regular period. What is your definition of a lobbyist? Is it somebody who is a paid advocate? Is somebody from the local community who is lobbying for a facility a lobbyist? Would there not be difficulties around data protection?

Lord Bew: I think that it is up to the Assembly to define those rules. There is another complexity: is an intellectually defined interest — a think tank — a lobbyist? As I understand it, the current position in London is that it is not. You need to decide what you think is a lobbyist. I suspect that the problem here is not on the same level as it is in London.

Ms Lo: What you said about trying to get a balance is really very interesting. You said that, when we meet one lobby group, we should balance our views and meet those from the opposite end of the argument. I understand what you are saying, but that will be quite difficult. For example, we have a lot of all-party groups on single issues. There are a number on, say, different mental health issues; dementia versus something else. So, if we have, say, an APG on dementia, should we then —

Lord Bew: I think that common sense applies there. I am on one of the all-party groups, and I completely get what you are at there. I should clarify it a bit more. In certain areas, there clearly is a reasonable public debate between different people lobbying for different causes. Let us take the example of the HS2. I do not think that people lobby in this way, but there are reasonably acceptable public arguments on one side and the other about that railway line. Obviously, in other areas, where you have APGs, for example, all that you deal with is people who are concerned about a certain issue. I was heavily involved in, and am a supporter of, the all-party group on human trafficking; I still am, but to a lesser extent. We meet all kinds of groups that are concerned about human trafficking and so on. However, we have not yet met the human traffickers' association. It will not come in to explain to us why human trafficking is actually not such a bad thing after all, because it increases people's economic opportunities, but there is a certain price to pay for it.

Ms Lo: Is there such a group in existence?

Lord Bew: We have not seen it. I quite agree that it would be ludicrous. That is your point, is it not?

Ms Lo: Yes.

The Chairperson: Fra, you have been very patient.

Mr F McCann: We had set questions, but I think that the last two members who spoke asked them.

I want to get back to the point in and around lobbyists. Let me give you an example. Most of us who have been contacted by local builders about an issue go and represent them, and if the residents have an objection, we go and meet them as well. So, you lobby on their behalf for a development that may be beneficial to the constituency.

Lord Bew: That is the lifeblood of democracy.

Mr F McCann: Yes, but how do you make the distinction? Let me give you an example. A number of years ago in Belfast City Council, when the whole thing around waste management was changing and being put out to public tender — it was a huge tender — there were councillors who refused to go into the room in case they were heavily lobbied to make a decision that may have ended up in court. Some of us were at the rough end of lobbyists then. Obviously, you say no and report it, but what is the difference because they are lobbying for a contract? A local builder would be lobbying also for something that will be financially beneficial to them.

Lord Bew: First, in terms of residents' associations, one of the things that you mentioned is just the lifeblood of democracy. That is what it is. I said earlier that the whole point of our document is to accept that lobbying is a legitimate part of democracy. The way out in difficult cases is transparency. Partly as a result of our advocacy in at least one of the Houses of Parliament, we now have a way out. Members of the House that I am in can make clear what their dealings have been. That has to be transparent and timeless. Sunlight has to be the way out. The House should make it easier for you so to do. It is as simple as that.

Lobbying is not an illegitimate activity. Residents' groups, for example, have legitimate concerns that everybody around this table has had to respond to at some time or other in their career. Regarding significant gifts and so on, what the public are concerned about is the undue weight of money behind the scenes. The House rules should allow you to defend yourself. They should allow you to meet lobbyists and make it clear that you have not been influenced by the undue weight of money behind the scenes. That is the only thing that the public are really concerned about, and quite rightly concerned about.

Mr F McCann: Why do you think that gifts from professional lobbyists should be treated differently? Given the array of organisations and individuals who might make representations to Members, how do you define a professional lobbyist?

Lord Bew: Let me tell you why we thought that in London. Perhaps I am wrong, but the more I reflect upon that here, and even the tone of this discussion, I do not think that professional lobbyists are a significant part of your lives. So, I think there is a problem there. In other words, it is not a piece of wordage that I would stand over as being particularly helpful to you.

The Chairperson: We have a session with some lobbyists next time round, so —

Mr F McCann: You spoke in your presentation about the attitudes in different countries, and you came down to the Dutch and the British thing, and the way the Dutch thought about this. What is the attitude of the press in Holland?

Lord Bew: Our seminar is on the website. Also on our website is our Euro-barometer document, as I call it, which is a survey of trust in different European countries. You will see there, just as you are saying, Fra, that a number of people — I mean some very serious people, not angry Members of Parliament but people who academically studied it for a long time, people who are judicious and not in the first firing line — said that a reason for the difference is the press. The Dutch press does not major on stories of corruption and so on.

A lot of people whom I really respect, and you can see it on our hour-long tape, get up and make that point three or four times in the discussion, which is implicit in your question. I understand why you made that point. Ireland is exactly the same in this respect. We have a long press tradition going back to the 18th century of contempt and not being impressed by the people who rule you. There is a constant blast upwards that they should not get above themselves. That is one of the great things about British life: people say, "They think they are all wandering around in the Palace of Westminster laying down the law. We're going to let them know that they are human just like the rest of us and that this or that is wrong". That has been the culture since the 18th century, and it is the culture of this island, too. It is not going to change.

You talk about transparency. Now, all our MPs' expenses and everything are laid out there. The only problems we have, according to IPSA, is that some people find problems with the technology of reporting some things, and I totally sympathise with them. People make technical mistakes in reporting, but, basically, it is all out there. Press stories run all the time asking whether you know this, that or the other about your Member of Parliament. Perhaps they have put something down. There has been no digging behind the scenes. The person obviously felt that, for some reason, that trip was completely valid for their work or whatever. No question; they put it down and declared it. I see stories that are never mentioned; all I did was switch on my computer last night, and I saw this. There is a problem, which is what you are getting at. I am reluctant to speak against what I see as a great British and Irish tradition of disdain for people in power. I am not quite going to go down that road. Look at the difference between the Dutch press and the British press. That is the answer. That is why there is such a gap between actual experience of corruption and the belief that it is there. The Dutch press is a more sedate press. I am not saying that it is not a democratic press; it is just more sedate than the British press, but do we really want a sedate press? Do we?

The Chairperson: You are probably asking the wrong people.

Ms Lo: In America, they are very strict about lobbyists; they all have to be registered. There are also very strict criteria about hospitality and gifts. Should we go down that road?

Lord Bew: Perhaps I am overemphasising it, Anna, but I have just come back from Washington, where my son was working in the past year. Because I was there and because of the job I have, I read quite a lot about the situation currently in Washington. I am particularly thinking of the work of Leibovich. The Obama regime's announced crackdown on lobbying has had virtually no impact at all. Lobbyists are still as well rewarded in Washington. They are as influential and as close to power. Some of the things described in Leibovich's book, for example, are things that could not happen in London. The presidency was announced as a presidency that would really crack down on lobbyists. I am not sure that anybody actually thinks that lobbyists are any weaker in Washington today than they were six years ago. It is well worth reading about some of the routes by which people gain influence. When you are dealing with very large sums of money, there is an ability by indirect means, such as supporting charities. It is not like a lobbyist saying to you, "Here you are. There's legislation coming up in the Assembly. Here's £10,000". It is by supporting charities that senior people are known to be keen supporters of. The routes by which lobbyists intervene and then gain access to those people are massively complex. It is not a £50 cheque; it will be millions of dollars going to a charity that x person is interested in. There are registers and all that. The reality is that lobbying is as live in Washington as it was six years ago. There is a conventional wisdom on all sides; it is somewhat wryly accepted by all sides in Washington.

Ms Lo: Looking at the figures of spending on lobbying, I see that now it is more or less the same, if not more, than six years ago.

Lord Bew: Yes.

The Chairperson: OK. Nobody else has indicated any questions. Lord Bew, thank you very much for your time. We appreciate it.

Lord Bew: Thank you. My apologies again on behalf of Ruth. It all would have been so much better if she had been here. I hope that there will be a chance for us to meet again and for you to meet Ruth Thompson, who heads up the office and did an awful lot of the work on the lobbying document in particular. I am very grateful for the opportunity. Thank you all for this afternoon's session.