



Rectification procedure

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Since 2002, the Parliamentary Commissioner for Standards has had discretion to allow Members to correct minor failures to register or declare interests without him having to report fully to the Committee on Standards and Privileges. In 2005, the rectification procedure was extended to cases involving parliamentary allowances and the use of facilities and services of the House.

In January 2010, the Committee on Standards and Privileges set out proposals, with which it agreed, from the Commissioner that included publishing determination letters on specific complaints not upheld or rectified and, on a monthly basis, the names of Members who were subject to an inquiry.

On 23 September 2010, the BBC reported that the Leader of the House of Commons had written to the Committee requesting that it take the proposals forward.

On 2 November, the Committee on Standards and Privileges agreed a report: it set out the Commissioner's proposals and its own recommendations for a new publication policy based on his proposals. Subsequently, a motion was tabled by the Chair of the Committee to approve the report; to allow the Commissioner to publish information relating to complaints rectified or not upheld since the financial year 2008/09 and information about complaints received and matters under investigation since the beginning of 2010/11; and to amend Standing Orders. It, and a motion to allow the Commissioner to initiate investigations, were put before the House on 16 November, but objected to.

The Backbench Business Committee provided time for the motions to be debated in the Chamber, on 2 December 2010. The motions and an additional motion, relating to the appointment of lay members to the Committee on Standards and Privileges, were agreed to.

This note reviews the origins and evolution of the rectification procedure. It notes how many times it has been used. It sets out John Lyon's proposals to change it. It reports the BBC's coverage of Sir George Young's letter to the Committee on Standards and Privileges. It outlines the Committee on Standards and Privileges' recommendations, and the House's decisions.

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1 The rectification procedure

The rectification procedure is set out in Standing Order No 150, which provides for there to be a Parliamentary Commissioner for Standards. Standing Order No 150(2) sets out the main duties of the Commissioner, which include reporting to the Committee on Standards and Privileges the outcome of any investigations into complaints about the registration or declaration of interests, or other aspects of the propriety of a Member's conduct. Standing Order No 150(3) sets out when such a report is not necessary (i.e the rectification procedure):

(3) No report shall be made by the Commissioner—

(a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

(b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable.

The current wording, covering both interests and allowances, facilities and services, was adopted in July 2005, following a short debate.¹ Until then the procedure only covered interests.

The House first agreed to include the procedure in Standing Orders in June 2003, following a recommendation from Committee on Standards in Public Life in its Eighth Report, *Standards of Conduct in the House of Commons*.² Before that, since May 2002, the Commissioner had some discretion, as explained in his first annual report:

In the case of admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has discretion to allow the Member concerned to rectify the matter. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House, either by means of a point of order or of an intervention in a relevant debate.³

On 2 December 2010, the Standing order was further amended to allow the Commissioner to publish, "from time to time":

a) information and papers relating to—

(i) matters resolved in accordance with paragraph (3) of this order;

and

(ii) complaints not upheld;

¹ HC Deb 13 July 2005 cc930-934

² Committee on Standards in Public Life, *Standards of Conduct in the House of Commons*, Eighth Report, November 2002, Cm 5663

³ Parliamentary Commissioner for Standards, *Annual Report 2002-03*, July 2003, HC 905 2002-03, Appendix 1

and

b) information about complaints received and matters under investigation.”⁴

2 Origins of the rectification procedure

The *Code of Conduct and Guide to the Rules* is regularly reviewed by the Committee on Standards and Privileges. In July 2000, the Committee issued a *Consultation on Proposed Amendments to the Rules Relating to the Code of Conduct of Members*.⁵ In the following session, in March 2001, the Committee published *Proposed Amendments to the Rules Relating to the Conduct of Members*.⁶

Following the 2001 General Election, the Committee on Standards and Privilege undertook a further review of the *Code of Conduct and Guide to the Rules*. It published its report in April 2002.⁷ It noted that in March 2001, its predecessor Committee had recommended “a number of changes to the rules relating to the conduct of Members, which are still awaiting consideration by the House”.⁸ It noted that the previous Committee had proposed a rectification procedure and it had instituted such a procedure:

Rectification procedure

37. The last Committee said it was —

“... right that the Commissioner should have the discretion not to pursue full investigation on minor issues where, during preliminary consideration, it is clear that the facts are not disputed and the Member immediately rectifies or apologises for a failure to declare or register. Where this rectification procedure is followed there should be a note to that effect in the Register.”

38. We have accordingly instituted a procedure which applies to admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House by means of a point of order.

39. If the Commissioner considers that rectification is the appropriate outcome of an inquiry, and the Member concerned agrees, the Commissioner makes no written report to us. As a consequence we would make no report of our own on the complaint.⁹

The addition of the rectification procedure was shown in the proposed revised Guide to the Rules, which was annexed to the Committee’s report. Changes to the previous edition were highlighted (in red type below):

87. If the Commissioner is satisfied that sufficient evidence has been tendered in support of the complaint to justify his taking the matter further, he will ask the Member to respond to the complaint and will then conduct a preliminary investigation. If he

⁴ HC Deb 2 December 2010 c1016

⁵ Committee on Standards and Privileges, *Consultation on Proposed Amendments to the Rules Relating to the Code of Conduct of Members*, 13 July 2000, HC 710 1999-2000

⁶ Committee on Standards and Privileges, *Proposed Amendments to the Rules Relating to the Conduct of Members*, 23 March 2001, HC 267 2000-01

⁷ Committee on Standards and Privileges, *A New Code of Conduct and Guide to the Rules*, 30 April 2002, HC 763 2001-02

⁸ *Ibid*, para 1

⁹ *Ibid*, paras 37-39

decides, after some inquiry, that there is no *prima facie* case, he will report that conclusion briefly to the Committee on Standards and Privileges. If he finds that there is a *prima facie* case or that the complaint raises issues of wider importance, he will normally report the facts and his conclusions to the Committee.

88. In the case of admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has discretion to allow the Member to rectify the matter. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House by means of a point of order. Any rectification is reported briefly to the Committee.¹⁰

The House of Commons approved the new Code of Conduct and Guide to the Rules, without a division, after a short debate, on 14 May 2002.¹¹

In the *First Annual Report 2002-03* of the Parliamentary Commissioner for Standards, a brief comment in the section on "Investigating Complaints" indicated that the rectification procedure was operational:

Where a complaint is within my terms of reference and supported by evidence, my next step is to seek an explanation from the Member concerned. What is asked of the Member is a full and truthful account of the matters in question. This may enable me to dismiss the complaint or, in cases where the matter raised is minor, to agree suitable remedial action with the Member under what is known as the rectification procedure.¹²

The rectification procedure was described more fully in an Appendix to the Parliamentary Commissioner for Standards' first annual report:

In the case of admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has discretion to allow the Member concerned to rectify the matter. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House, either by means of a point of order or of an intervention in a relevant debate.

A late entry in the Register will be printed in bold italics and asterisked to a footnote. * The footnote will read: "*entry added or amended on [insert date], under the rectification procedure*"

The footnote will be cross-referred to the page at the beginning of the Register where the rectification procedure will be briefly explained.

The corrected entry will remain in bold italics for 12 months from its first appearing and will also appear in one annual printed Register.

The entry itself in standard form will stay in so long as it is relevant if related to a continuing benefit.

The decision on whether the use of the rectification procedure is appropriate in any case is a matter for the Commissioner, who has discretion to dispose of such cases without first bringing them before the Committee on Standards and Privileges.

¹⁰ *Ibid*, Annex 2, paras 87-88

¹¹ HC Deb 14 May 2002 cc731-751

¹² para 4.6

Nonetheless, in any case in which the procedure is used, the Commissioner reports its use briefly to the Committee. He also informs the complainant of the outcome.¹³

3 Changes affecting the rectification procedure

The Committee on Standards in Public Life (CSPL) considered the rectification procedure in its Eighth Report, *Standards of Conduct in the House of Commons*.¹⁴ While the CSPL welcomed the amendment to the Guide to the Rules to allow the rectification procedure, it recommended that the Commissioner's role in the procedure should be set out clearly:

In May 2002, the House of Commons approved amendments proposed by the Committee on Standards and Privileges to the Code of Conduct and Guide to the Rules. This included a description of the rectification procedure, which allows the Commissioner to use his discretion to allow Members to rectify admitted minor failures to register or declare interests. We welcome this amendment. However, Standing Order No 150 gives no indication of this power; the Order gives the impression that the Commissioner's role with regard to complaints stops after investigation. For purposes of clarity **we recommend** that it should be made clear that, in certain circumstances, the Commissioner's functions go beyond investigation and can involve the rectification procedure.

RECOMMENDATION

R9 The role of the Commissioner in the rectification procedure should be set out clearly.¹⁵

The Committee on Standards and Privileges considered the CSPL's report. In *Eighth Report of the Committee on Standards in Public Life: "Standards of Conduct in the House of Commons"*, it provided the following response to the recommendation:

The nature of the rectification procedure is clarified in the procedural guidance notes. These also make clear the Commissioner's role in the rectification procedure. We agree with the Wicks Committee [the CSPL] that it would make sense to amend Standing Order No. 150 to make explicit the Commissioner's role in relation to the rectification procedure.¹⁶

3.1 Clarifying the role of the Parliamentary Commissioner for Standards

On 23 June 2003, the House debated the CSPL's report, along with responses to it from both the Committee on Standards and Privileges and the House of Commons Commission, and proposals to change Standing Orders. The debate was opened by Peter Hain, then the Leader of the House, who explained how the CSPL recommendation on the role of the Parliamentary Commissioner for Standards would be clarified:

In respect of Standing Order No. 150, the new paragraph (2A) implements a recommendation of the Wicks committee that the Commissioner's role in the rectification procedure should be set out clearly.¹⁷

¹³ Parliamentary Commissioner for Standards, *Annual Report 2002-03*, July 2003, HC 905 2002-03, Appendix 1

¹⁴ Committee on Standards in Public Life, *Standards of Conduct in the House of Commons*, Eighth Report, November 2002, Cm 5663

¹⁵ *Ibid*, para 5.24

¹⁶ Committee on Standards and Privileges, *Eighth Report of the Committee on Standards in Public Life: "Standards of Conduct in the House of Commons"*, 11 February 2003, HC 403 2002-03 para 17

¹⁷ HC Deb 23 June 2003 c1242

At the end of the debate, the House agreed a number of changes to Standing Order No 150. Those relating to the rectification procedure were that:

(2) Standing Order No. 150 (Parliamentary Commissioner for Standards) be amended as follows:

(a) line 33, at end add 'unless the provisions of paragraph (2A) apply.'

(2A) No report shall be made by the Commissioner if, in any case where the Member concerned has agreed that he has failed to register or declare an interest, it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose.¹⁸

[**Note:** para 2A became para 3 in the next edition of the Standing Orders, later paragraphs were consequently renumbered.]

3.2 The 2004-05 Review of the Code of Conduct and Guide to the Rules

In April 2005, the Committee on Standards and Privileges' *Review of the Code of Conduct* was published. The Parliamentary Commissioner for Standards undertook a consultation exercise on the Code.¹⁹

Following the consultation exercise, the Commissioner recommended, among other things, the "extension of the existing provisions regarding misuse of Parliamentary allowances to misuse of facilities and services provided by the House".²⁰ However, the Committee noted its concern that this could lead to an increase in the workload of the Commissioner:

14. As complaints about the misuse of facilities and services will henceforth fall within the responsibilities of the Commissioner if the House agrees to the new Code, the present arrangements whereby they are received and disposed of by the Serjeant at Arms and other House officials will no longer be appropriate other than in respect of evidence of misuse which they uncover themselves. However, the present arrangements for investigating such matters appear to work well and to command general confidence. It would therefore be sensible to build on them, while ensuring that overall control of the investigation is in the hands of the Commissioner. This would also help reduce the additional burden on the Commissioner from bringing misuse of facilities and services within the Code.

15. We recommend that all complaints received by the Commissioner relating to alleged misuse of facilities and services should be referred by him to the appropriate House authorities for investigation of the facts. When they have reported back, he would decide whether to dismiss the complaint; investigate it further and report to the Committee on Standards and Privileges; or to request the authority concerned to secure appropriate financial reimbursement.

16. At present, there is no mechanism whereby the Commissioner can refer complaints alleging misuse of allowances to the Director of Finance and Administration for investigation. Any such complaint, however minor, is subject to the Commissioner's full investigative procedure, in the course of which the Commissioner must necessarily draw heavily on factual material provided by the Department of Finance and

¹⁸ HC Deb 23 June 2003 c1257

¹⁹ Committee on Standards and Privileges, *Review of the Code of Conduct*, 4 April 2005, HC 472 2004-05, paras 3-5

²⁰ *Ibid*, para 7

Administration. We consider that there would be advantage if, in future, complaints alleging misuse of allowances were initially dealt with in a manner similar to that which we have recommended in respect of complaints alleging misuse of facilities and services.

17. We therefore recommend that all such complaints be referred by the Commissioner to the Department of Finance and Administration for investigation of the facts. The Department would report back to him and he would then decide whether to dismiss the complaint; investigate it further and report to the Committee on Standards and Privileges; or to request the Department to secure appropriate finance reimbursement.

18. As we have already said, proceeding in this way should help to keep down the Commissioner's workload in relation to complaints alleging abuse of allowances, services and facilities, while continuing to leave him in overall charge of the investigation of all complaints. It would also have a beneficial effect in that in all instances of possible misuse, regardless of whether they come to the attention of the Commissioner through a complaint, or otherwise come to the attention of the House authorities, the facts would be established in the same way.²¹

The House considered the Report after the general election, on 13 July 2005. In opening the debate, Geoff Hoon, the Leader of the House of Commons, explained that implementing the Committee's recommendations would require further changes to Standing Order No 150:

Motion 42 amends Standing Order No. 150, in line with paragraphs 15 and 17 of the Committee's report, introducing a new, simplified procedure for dealing with some cases of misuse of parliamentary allowances, facilities or services. With the agreement of the Member concerned, the commissioner will be able to exercise discretion to refer such cases to the relevant Officer of the House to secure appropriate reimbursement. Provided that the process is completed in a reasonable time scale, there will be no need for the commissioner to report to the Committee. That represents a useful extension to the rectification procedure in respect of inadvertent or minor failures to register or declare interests.²²

Following the debate, the House agreed:

That Standing Order No. 150 (Parliamentary Commissioner for Standards) be amended by leaving out paragraph (3) and inserting the following—

'(3) No report shall be made by the Commissioner:

(a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

(b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable.²³

²¹ *Ibid*, paras 14-18

²² HC Deb 13 July 2005 c931

²³ HC Deb 13 July 2005 c934

In 2009 the Standing Order was further changed to reflect the renaming of the Register of Members' Interests as the Register of Members' Financial Interests. Full details of the changes to Standing Order No 150 are set out in the Appendix.

4 Use of the rectification procedure

The Parliamentary Commissioner for Standards has published annual reports reviewing his work since 2002-03, which coincides with the House's adoption of the rectification procedure.

Table 1 collates information from each annual report on the number of times the rectification procedure has been used in each reporting period (financial year). Table 2 extracts information from a table in the most recent Annual Report detailing complaints received from 2005-06 to 2009-10.

Table 1: Complaints upheld by means of the rectification procedure

	Number
2002-03	1
2003-04	1
2004-05	0
2005-06	0
2006-07	10
2007-08	7
2008-09	16
2009-10	14

Source: Parliamentary Commissioner for Standards, *Annual Reports*, 2002-03 to 2009-10

[Note: in the 2007-08 annual Report, the Parliamentary Commissioner for Standards reported that "In addition to the complaints shown in the table, during the year the Commissioner resolved four complaints carried over from 2006-07 ... one was resolved by means of the rectification procedure...".²⁴]

The Commissioner briefly described the nature of the complaints resolved using the rectification procedure in his annual reports:

- [In 2002-03] "An example of the use of the latter during the past year concerned a Member who failed to declare when speaking about hunting that, according to the Register of Members' Interests then current, a pro-hunting group was a client of his parliamentary consultancy".²⁵
- [In 2003-04] "One complaint was dealt with through the rectification procedure ... The complaint, which concerned the failure of a Member to register some earnings from media work, arrived very shortly after I had reported on a similar complaint against the same Member. As the second complaint essentially covered the same ground and arose out of the same set of circumstances as the first, I exercised the discretion given me by the House to make a belated entry in the Register with an appropriate explanatory note".²⁶
- "In 2006-07 I dealt with a total of 10 cases in this way. Eight of these cases involved minor misuse of House of Commons stationery or pre-paid envelopes and

²⁴ Parliamentary Commissioner for Standards, *Annual Report 2007-08*, fn13

²⁵ Parliamentary Commissioner for Standards, *Annual Report 2002-03*, July 2003, HC 905 2002-03, para 4.6

²⁶ Parliamentary Commissioner for Standards, *Annual Report 2003-04*, July 2004, HC 716 2003-04, para 3.14

the Member concerned both apologised and repaid the cost of the stationery or postage involved. In the two other cases (one involving a former Member who had left the House at the 2005 General Election) which both involved failure to register an interest, I arranged for appropriate entries to be made in the Register of Members' Interests".²⁷

- "A total of seven complaints received in 2007-08 were resolved by means of the rectification procedure. All of these involved comparatively minor misuse of House of Commons stationery or pre-paid envelopes and the Members concerned apologised and repaid the cost of the stationery or postage involved. An eighth case, which was carried forward from 2006-07, concerned an overpayment to an employee. The Member concerned reimbursed the monies involved".²⁸
- "During 2008-09 I used the rectification procedure to conclude one complaint concerning a failure to register an interest within due time, and fifteen complaints concerning comparatively minor misuse of the allowances or facilities of the House. Eight concerned the use of Parliamentary stationery, principally pre-paid envelopes; six concerned the use of the Communications Allowance, and the remaining complaint concerned the use by a Member's employee of a parliamentary e-mail account".²⁹
- "During the year I resolved fourteen inquiries by means of this procedure. The majority (ten) concerned Members' use of their Communications Allowance or of House of Commons stationery and pre-paid envelopes. In addition, I rectified three complaints concerning the use of the Incidental Expenses Provision, and one concerning the Additional Costs Allowance".³⁰

Table 2: Complaints received from 2005-06 to 2009-10

	2005-06	2006-07	2007-08	2008-09	2009-10
Specific complaints against a named Member	129	176	226	192	317
Complaints subject of inquiry	23	81	71	54	80
Complaints not inquired into	106	95	155	160	245
Complaints resolved					
1 upheld by means of rectification procedure	0	10	7	16	14
2 upheld by means of a memorandum to Committee on Standards and Privileges	0	38	15	17	20
3 Complaints not upheld	15	26	29	16	17
Total complaints resolved	15	74	51	46	51

Source: Parliamentary Commissioner for Standards, *Annual Report*, 2009-10, Table 3

5 Proposals to change the rectification procedure from the Parliamentary Commissioner for Standards

In January 2010, the Committee on Standards and Privileges issued a press notice, in which it summarised proposals from John Lyon, the Parliamentary Commissioner for Standards, that he should publish more information on complaints against Members of Parliament. The

²⁷ Parliamentary Commissioner for Standards, *Annual Report 2006-07*, 25 October 2007, HC 1012 2006-07, para 3.7

²⁸ Parliamentary Commissioner for Standards, *Annual Report 2007-08*, 17 July 2008, HC 797 2007-08, para 3.11

²⁹ Parliamentary Commissioner for Standards, *Annual Report 2008-09*, 30 June 2009, HC 608 2008-09, para 3.27

³⁰ Parliamentary Commissioner for Standards, *Annual Report 2009-10*, 29 July 2009, HC 418 2009-10, para 3.27

Committee agreed with the proposals and set out how it intended that the information should be published. However, the Committee noted that “The new publication policy will require the approval of the House”:

The Committee on Standards and Privileges has agreed a proposal from the Parliamentary Commissioner for Standards that he should publish more information on complaints against Members of Parliament.

The proposed new arrangements are as follows:

1. The Commissioner will each month place on his website statistical information about complaints. This will cover the number of complaints he has received; the number he has accepted; the number he has not accepted by broad category; and the number which he has resolved in the previous month, including the numbers not upheld, rectified, or reported to the Committee.
2. The Commissioner will publish on his website his determination letters on specific complaints not upheld or rectified, as soon as possible after they are produced.
3. The Commissioner will publish on his website the evidence he has received in relation to complaints which he has not upheld or has rectified. It may not always be possible to publish the evidence at the same time as the relevant determination letters are published.
4. The Commissioner will list each month on his website the names of Members who are subject to an inquiry, with a brief description of the nature of the complaint.

The Committee has agreed with the Commissioner that under the proposed new arrangements the Commissioner will publish statistical information from the beginning of this financial year, quarterly for the first three quarters, and monthly thereafter, to be followed by a list of Members currently the subject of an inquiry. The Committee has agreed with the Commissioner that the publication policy will apply also to determination letters for this current and for the last financial year, and in due course to the evidence on which they are based. The Commissioner will write to each Member concerned and to each complainant and witness before publication takes place.

The new publication policy will require the approval of the House. Further announcements will be made once this has been obtained.³¹

6 Calls to revise the rectification procedure

On 23 September 2010, the BBC reported that the Leader of the House of Commons, Sir George Young, had written to the Committee on Standards and Privileges requesting that it take forward proposals from John Lyon, the Parliamentary Commissioner for Standards, to make changes to the rectification procedure. Sir George suggested that the Committee should ask the Back Bench Business Committee to find time for the House to debate the proposals:

Failing to publish more details of expenses complaints could damage Parliament's reputation, Commons Leader Sir George Young has warned.

It follows criticism of a procedure by which MPs who wrongly claimed expenses have been allowed to repay the money without it being widely publicised.

Standards commissioner John Lyon says it is used in "less serious" cases but wants details published on his website.

Sir George urged MPs to take Mr Lyon's proposals, made in January, forward.

The most serious breaches of Parliamentary rules are investigated by Mr Lyon, whose report is published by the Commons standards and privileges committee.

'Secrecy' criticism

The committee has the power to make MPs apologise or suspend them from the Commons for a fixed period.

But breaches judged less serious can be dealt with by a procedure known as "rectification" - where MPs apologise for mistakes made and agree to repay the money. The commissioner writes to the person who made the complaint with his findings, but they are not publicised by the standards committee.

The procedure came to light earlier this year when the Daily Telegraph reported that an MP who had claimed twice as much petty cash as she was permitted, had been allowed to repay nearly £5,750 without a full investigation.

It has led to criticism of the procedure as "secret deals" for MPs. Former Speaker Baroness Boothroyd said it should not have been allowed, telling the BBC in January: "I am appalled if it is the case that this can be done behind the scenes - you pay up and we won't name you."

The commissioner's office has stressed that the process is not secret - the complainant is free to publicise Mr Lyon's findings if they wish.

But Mr Lyon has argued that in view of the public interest following the MPs' expenses scandal, he felt there were "strong arguments" to publish more details of cases dealt with under the rectification procedure.

In January he proposed publishing on his website his decision letters and supporting evidence, for cases dating back to 2008.

The standards committee, chaired by Sir George before he was promoted to the cabinet after the general election, approved the proposal at the time but said they would need MPs' agreement.

Sir George, now Commons leader, wrote to the committee about the issue on Wednesday, saying: "The government fully supports these proposals. The failure to publish more details of the use of rectification is clearly potentially damaging to the House's reputation."

He said as the Commons' own standing orders had to be changed to allow the information to be published, it was up to the new Backbench Business Committee to find the time for a debate.

"A request from the Standards and Privileges Committee to the Backbench Business Committee would therefore be the appropriate way of taking this reform forward," he wrote.

³¹ Committee on Standards and Privileges Press Notice, [Complaints against MPs: proposal to publish more information](#), Press Notice No 2, 2009-10, 27 January 2010

In 2009-10 Mr Lyon dealt with 51 complaints, 20 of which were subject to a full investigation and the findings referred to the standards committee. Fourteen were dealt with via the rectification procedure - most of which were complaints about MPs' use of Commons stationery and pre-paid envelopes.³²

7 Recommendations from the Committee on Standards and Privileges

7.1 The Committee's report

On 2 November, the Committee on Standards and Privileges agreed a report, *Publication of information about complaints against Members*, in which it set out the Commissioner's proposals and its own recommendations for a new publication policy based on his proposals.³³

After setting out its predecessor's announcement on the Parliamentary Commissioner for Standards' proposals, the Committee outlined the 2003 publication policy. It then outlined why the publication policy needed to change. As envisaged in the Commissioner's proposals made in January 2010, the changes recommended are wider than the rectification procedure:

- The Committee agreed with the proposal that information on the number and type of complaints received should be published monthly;³⁴
- The Committee recommended that "the Commissioner continue to publish statistical information about complaints that are not accepted for inquiry, initially every three months but monthly by early 2011, but that he should not publish information or papers relating to specific complaints".³⁵
- The Committee also recommended that "the Commissioner should list on his website each month the name of each Member or former Member who is currently the subject of an investigation by him, with a brief description of the nature of the complaint or allegation". The Committee said that if an investigation had been suspended this should be indicated.³⁶

On rectification, the Committee noted that currently the Commissioner included a brief description of each case resolved using the rectification procedure in his annual report. However, this information was published "some time after the event" and any Member concerned was not identified. The Committee argued that:

... In our view and in that of the Commissioner, it is no longer acceptable for information either about complaints upheld and dealt with through the rectification procedure or about complaints not upheld to remain unpublished for many months, or for the name of the Member concerned to be withheld. The present procedure effectively provides the complainant and the Member concerned discretion over whether and when to publish this information, whereas in the view of the Commissioner and of this Committee publication should be the responsibility of the Commissioner, acting in the public interest.

³² BBC News, [Sir George Young urges action over expenses deals](#), 23 September 2010

³³ Committee on Standards and Privileges, *Publication of information about complaints against Members*, 4 November 2010, HC 577 2010-11

³⁴ *Ibid*, para 9

³⁵ *Ibid*, para 12

³⁶ *Ibid*, para 15

[...]

We recommend that the Commissioner should always publish on his website letters sent by him rectifying or not upholding a complaint or self-referral. Evidence that is relevant to such findings should also be published by the Commissioner on his website within a reasonable period. We recognise that it will not always be possible to publish the evidence on the same date as the letters themselves are published.³⁷

The Committee made no proposals to change the way it deals with complaints that were upheld by the Commissioner.³⁸

The Committee drew the conclusion:

We believe that our proposals for a new publication policy, which are based on those made by the Commissioner in January 2010, are proportionate and reasonable. In our view, they strike the right balance between serving the public and protecting the rights of the individual.³⁹

7.2 Motion

On 9 November, the Remaining Orders and Notices included a motion tabled by the Chair of the Committee to approve the report; to allow the Commissioner to publish information relating to complaints rectified or not upheld since the financial year 2008/09 and information about complaints received and matters under investigation since the beginning of 2010/11; and to amend Standing Orders. The motion is set out below:

PUBLICATION OF INFORMATION ABOUT COMPLAINTS AGAINST MEMBERS

Mr Kevin Barron
Sir Paul Beresford
Annette Brooke
Heather Wheeler
Dr Alan Whitehead

(1) That this House approves the Sixth Report of the Standards and Privileges Committee, Session 2010-11, HC 577; and

(2) That accordingly—

a. The Commissioner may publish papers relating to complaints rectified or not upheld since the beginning of financial year 2008-09 and information about complaints received and matters under investigation since the beginning of financial year 2010-11.

b. Standing Order No. 150 be amended, by inserting the following new paragraph after paragraph 10.

“(10A) The Commissioner shall have leave to publish from time to time—

a) information and papers relating to—

(i) matters resolved in accordance with paragraph (3) of this order;

and

³⁷ *Ibid*, paras 18 and 20

³⁸ *Ibid*, para 21

³⁹ *Ibid*, para 24

- (ii) complaints not upheld;
- and
- b) information about complaints received and matters under investigation.”⁴⁰

8 Implementing the new rules

At Business Questions on 11 November 2010, Sir George Young, the Leader of the House of Commons, said that the motion (along with another motion that would allow the Commissioner to initiate investigations) would be put before the House for its agreement, without debate. If the motion was objected to at that time, it would not be possible to hold a debate then but a debate could be timetabled at a later stage:

Mr Kevin Barron (Rother Valley) (Lab): The Leader of the House has added his name to two motions on the Order Paper laid by members of the Select Committee on Standards and Privileges regarding two recently published reports. When will those motions be debated on the Floor of the House, thereby allowing us to take a decision on them?

Sir George Young: I am grateful to the right hon. Gentleman and his Committee for producing those two reports. I envisage that those motions will be on the operative part of the Order Paper next week. The House can then decide whether to let them through on the nod or to debate them.⁴¹

The motions were put before the House on 16 November 2010, after the moment of interruption (that is when there was no opportunity to debate them). Both motions were objected to.⁴² The motions remain on the Order Paper awaiting time to be allocated for a debate.

The Backbench Business Committee agreed to allow time for the motions to be debated in time under its control on 2 December 2010. However, the Committee noted that this would be subject to a Business of the House motion being agreed:

The Committee on Standards and Privileges has requested time for these motions to be considered. They will be debated for up to one and a half hours at the start of business, if a Business of the House Motion is agreed to by the House in advance.⁴³

On 25 November 2010, the House agreed that the motions arising from the Committee on Standards and Privileges' Report could be debated for up to one and a half hours.⁴⁴

8.1 Debate and decisions on proposals from the Committee on Standards and Privileges

A third motion, on the appointment of lay members to the Committee on Standards and Privileges, was added to the Order Paper, and all three were debated together on 2 December 2010.

⁴⁰ House of Commons, *Remaining Orders and Notices*, 9 November 2010, Item 39

⁴¹ HC Deb 11 November 2010 c427

⁴² HC Deb 16 November 2010 cc856-857

⁴³ Backbench Business Committee, [Determination of Business for Thursday 2 December and Thursday 9 December](#)

⁴⁴ HC Deb 25 November 2010 c496

Kevin Barron, the Chair of the Committee, opened the debate. He described the effect of the motion on the rectification procedure in the following way:

By agreeing to the first motion, the House will bring its publication policy on the complaints handling process into line with best practice. The current regime, which greatly limits what is published, no longer meets legitimate public expectations. Sections of the media have been able to portray the way in which less serious breaches of the rules are rectified as "secret deals". There has also been inaccurate reporting of who is, and who is not, under inquiry, and what they might be under inquiry for. By enabling the commissioner to publish the information, the House will ensure that it is both accurate and complete. The alternative is to leave us exposed to unfair allegations of cover-ups and to allow the media to continue to set the agenda for us, often on the basis of inaccurate or incomplete information.

Under the new policy, each month the commissioner will publish on his web pages statistical information about the number of complaints and self-referrals he has received, the number he has accepted, and the number he has not accepted. He will not publish the names of Members who have been the subject of complaints that he has not accepted for inquiry or the details of those complaints. To do so would be unfair and would encourage malicious complaints and publicity seekers. To put this into perspective, if the new policy had been in place in 2009-10, no details of the 245 complaints that were not accepted for inquiry would have been published. All that would have been published would have been the information on the 72 complaints that were inquired into.

As for complaints that are accepted, each month the commissioner will list on his web pages inquiries that are under way, including in each case the name of the Member who is subject to the inquiry, with a brief description of the nature of the allegation and an indication of whether the inquiry is active or has for any reason been suspended. Other than in exceptional circumstances, which would have to be approved by the Committee, he will not publish other information about specific inquiries while they are under way. As our report makes clear, the commissioner already confirms or denies to inquirers that a complaint against a named Member is being investigated. The change will introduce consistency into a process that at the moment is random and largely media-driven.

The commissioner will also publish on his web pages his determination letters on specific complaints or allegations that, after inquiry, have either not been upheld or have been rectified as soon as possible after they are produced. He will also publish relevant evidence he has received about such cases. In the Committee's view, it is in the best interests of the Member concerned and of the House that where evidence of a possible breach has been fully investigated but the allegation has not been upheld or the matter has been rectified with the commissioner's agreement, both the decision and the reasons for it should be made public.

It is perhaps worth repeating that complainants-some of them politically motivated-have always been free to publicise the outcome of the commissioner's inquiry into a complaint that is either rectified or not upheld, but at a time and in a manner of their own choosing. That unregulated state of affairs will be replaced by one that is consistent and, I believe, fair and that is under the authority of the House. Publishing the information will help Members to set the record straight publicly and will go some way to redressing the balance.

The motion also proposes that historical information going back to April 2008 should be published. I know that that has caused some concern, but the reason for backdating the information is to make it broadly consistent with other recent decisions of the

House to introduce greater transparency. I remind the House that, contrary to what sections of the media have claimed, the commissioner's determinations are not secret. Much of it is already out there, although often in incomplete form, because complainants have always been free to publicise the outcome of their complaint. By allowing the commissioner to publish his determinations and the relevant evidence, the House will ensure that what is published is both accurate and complete. If the House supports the Committee's proposal, the commissioner will start to publish information on his web pages later this month.⁴⁵

Both the Government and the Opposition offered their support to the three motions,⁴⁶ although Helen Jones, the Shadow Deputy Leader of the House, raised a number of queries about the changes to the rectification procedure. She asked why the decision to publish details was retrospective; she noted a risk that “the whole affair will be reopened”, when details were published; she also asked about the effect of publicising the names of those under investigation.⁴⁷

In response to the question about the retrospective publication of information on cases resolved using the rectification procedure, Kevin Barron said that:

When people have done wrong and have admitted doing wrong, rectification has been the right and proper thing to do from the commissioner's point of view. It is his decision and no one else's to take the matter no further. Money is paid back, and matters are settled. However, the information is not published in a right and proper way at the moment. We need more transparency, so that people can understand exactly what is happening. I entirely accept that that involves the question of retrospection. We are trying to put the last 18 months behind us, and, as I said, in that context I think that retrospection is right and proper. I hope that the House will accept it on that ground.⁴⁸

He did not believe that cases that had been resolved would be reopened. He noted that the Commissioner would only publish details of Members who were being investigated: details of complaints against Members that did not warrant investigation would not be published.⁴⁹

The House agreed the motion without a division.⁵⁰

⁴⁵ HC Deb 2 December 2010 cc996-997

⁴⁶ HC Deb 2 December 2010 c1000; c1005

⁴⁷ HC Deb 2 December 2010 cc1005-1006

⁴⁸ HC Deb 2 December 2010 c1015

⁴⁹ *Ibid*

⁵⁰ HC Deb 2 December 2010 c1016

Appendix – Evolution of Standing Order No 150 (Parliamentary Commissioner for Standards)

1998 (as agreed on 6 November 1995)

(1) There shall be an officer of this House, called the Parliamentary Commissioner for Standards, who shall be appointed by the House.

(2) The principal duties of the Commissioner shall be-

(a) to maintain the Register of Members' Interests and any other registers of interest established by the House, and to make such arrangements for the compilation, maintenance and accessibility of those registers as are approved by the Committee on Standards and Privileges or an appropriate sub-committee thereof;

(b) to provide advice confidentially to Members and other persons or bodies subject to registration on matters relating to the registration of individual interests;

(c) to advise the Committee on Standards and Privileges, its sub-committees and individual Members on the interpretation of any code of conduct to which the House has agreed and on questions of propriety;

(d) to monitor the operation of such code and registers, and to make recommendations thereon to the Committee on Standards and Privileges or an appropriate sub-committee thereof; and

(e) to receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of-

(i) the registration or declaration of interests, or

(ii) other aspects of the propriety of a Member's conduct,

and to report to the Committee on Standards and Privileges or to an appropriate sub-committee thereof.

(3) The Commissioner may be dismissed by resolution of the House

Source: House of Commons, *Standing Orders of the House of Commons – Public Business 1998*, <http://www.publications.parliament.uk/pa/cm199798/cmstords/1mpubbs.htm>

November 2003 (as agreed on 26 June 2003)

(1) There shall be an officer of this House, called the Parliamentary Commissioner for Standards, who shall be appointed by the House.

(2) The principal duties of the Commissioner shall be—

(a) to maintain the Register of Members' Interests and any other registers of interest established by the House, and to make such arrangements for the compilation, maintenance and accessibility of those registers as are approved by the Committee on Standards and Privileges or an appropriate sub-committee thereof;

(b) to provide advice confidentially to Members and other persons or bodies subject to registration on matters relating to the registration of individual interests;

(c) to advise the Committee on Standards and Privileges, its sub-committees and individual Members on the interpretation of any code of conduct to which the House has agreed and on questions of propriety;

(d) to monitor the operation of such code and registers, and to make recommendations thereon to the Committee on Standards and Privileges or an appropriate sub-committee thereof; and

(e) to receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of—

(i) the registration or declaration of interests, or

(ii) other aspects of the propriety of a Member's conduct,

and to report to the Committee on Standards and Privileges or to an appropriate sub-committee thereof unless the provisions of paragraph (3) apply.

(3) No report shall be made by the Commissioner if, in any case where the Member concerned has agreed that he has failed to register or declare an interest, it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose.

(4) The Commissioner may at any time in the course of investigating a complaint, and if so requested by the Committee on Standards and Privileges shall, appoint an Investigatory Panel to assist him in establishing the facts relevant to the investigation.

(5) An Investigatory Panel shall—

(a) consist of the Commissioner, who shall be Chairman of the Panel, and two assessors, one of whom shall be a legally qualified person appointed by the Commissioner and the other shall be a Member, who shall not be a member of the Committee on Standards and Privileges, appointed by the Speaker; and

(b) meet in private.

(6) The Commissioner—

(a) shall determine the procedures of the Panel, subject to the provisions of this Order; and

(b) may appoint counsel for the purpose of assisting the Panel.

(7) Any report that the Commissioner may have made to the Committee on Standards and Privileges in relation to the complaint before the appointment of the Panel shall be made available to the Panel by the Committee.

(8) Any Member who is the subject of the complaint under investigation shall, if he so requests, be heard by the Panel; may call witnesses; and may examine other witnesses.

(9) When the Panel has completed its proceedings—

(a) the Commissioner shall report as in paragraph (2)(e);

(b) the legal assessor shall report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have been consistent with the principles of natural justice; and

(c) the Member assessor may report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.

(10) The Commissioner shall report each year to the House on the exercise by him of his functions.

(11) The Commissioner may be dismissed only following a resolution of the House, moved for by a Member of the House of Commons Commission, after the Committee on Standards and Privileges has reported to the House that it is satisfied that the Commissioner is unfit to hold his office or unable to carry out his functions; and any such report shall include a statement of the Committee's reasons for its conclusion.

Source: House of Commons, *Standing Orders of the House of Commons – Public Business 2003*, <http://www.publications.parliament.uk/pa/cm200203/cmstords/175/17501.htm>

October 2005 (as agreed on 13 July 2005)

(1) There shall be an Officer of this House, called the Parliamentary Commissioner for Standards, who shall be appointed by the House.

(2) The principal duties of the Commissioner shall be—

(a) to maintain the Register of Members' Interests and any other registers of interest established by the House, and to make such arrangements for the compilation, maintenance and accessibility of those registers as are approved by the Committee on Standards and Privileges or an appropriate subcommittee thereof;

(b) to provide advice confidentially to Members and other persons or bodies subject to registration on matters relating to the registration of individual interests;

(c) to advise the Committee on Standards and Privileges, its subcommittees and individual Members on the interpretation of any code of conduct to which the House has agreed and on questions of propriety;

(d) to monitor the operation of such code and registers, and to make recommendations thereon to the Committee on Standards and Privileges or an appropriate subcommittee thereof; and

(e) to receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of—

(i) the registration or declaration of interests, or

(ii) other aspects of the propriety of a Member's conduct,

and to report to the Committee on Standards and Privileges or to an appropriate subcommittee thereof unless the provisions of paragraph (3) apply.

(3) No report shall be made by the Commissioner:

(a) in any case where the Member concerned has agreed that he has failed to register or declare an interest, if it is the Commissioner's opinion that the interest involved is minor, or the failure was inadvertent, and the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose; and

(b) in any case involving parliamentary allowances, or the use of facilities or services, if the Commissioner has with the agreement of the Member concerned referred the matter to the relevant Officer of the House for the purpose of securing appropriate financial reimbursement, and the Member has made such reimbursement within such period of time as the Commissioner considers reasonable.

(4) The Commissioner may at any time in the course of investigating a complaint, and if so requested by the Committee on Standards and Privileges shall, appoint an Investigatory Panel to assist him in establishing the facts relevant to the investigation.

(5) An Investigatory Panel shall—

(a) consist of the Commissioner, who shall be Chairman of the Panel, and two assessors, one of whom shall be a legally qualified person appointed by the Commissioner and the other shall be a Member, who shall not be a member of the Committee on Standards and Privileges, appointed by the Speaker; and

(b) meet in private.

(6) The Commissioner—

(a) shall determine the procedures of the Panel, subject to the provisions of this Order; and

(b) may appoint counsel for the purpose of assisting the Panel.

(7) Any report that the Commissioner may have made to the Committee on Standards and Privileges in relation to the complaint before the appointment of the Panel shall be made available to the Panel by the Committee.

(8) Any Member who is the subject of the complaint under investigation shall, if he so requests, be heard by the Panel; may call witnesses; and may examine other witnesses.

(9) When the Panel has completed its proceedings—

(a) the Commissioner shall report as in paragraph (2)(e);

(b) the legal assessor shall report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have been consistent with the principles of natural justice; and

(c) the Member assessor may report to the Committee on Standards and Privileges his opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.

(10) The Commissioner shall report each year to the House on the exercise by him of his functions.

(11) The Commissioner may be dismissed only following a resolution of the House, moved for by a Member of the House of Commons Commission, after the Committee on Standards and Privileges has reported to the House that it is satisfied that the Commissioner is unfit to hold his office or unable to carry out his functions; and any such report shall include a statement of the Committee's reasons for its conclusion.

Source: House of Commons, *standing Orders of the House of Commons – Public Business 2005*, <http://www.publications.parliament.uk/pa/cm200506/cmstords/416/41601.htm>

Changes in February 2009

On 9 February 2009, the House amended its Standing Orders to replace references to Register of Members' Interests and Registrar of Members' Interests, as follows:

(6) Accordingly, in each place where they occur in any Standing Order, Order or Resolution of the House:(a) for 'Register of Members' Interests' there shall be substituted 'Register of Members' Financial Interests'; and(b) for 'Registrar of Members' Interests' there shall be substituted 'Registrar of Members' Financial Interests'.⁵¹

⁵¹ HC Deb 9 February 2009 c1114

Changes in December 2010

On 2 December 2010 the House agreed two separate motions that amended Standing Order No 150. First, it agreed to make changes to the information relating to cases that had been resolved using the rectification procedure, cases not upheld and cases under consideration that the Parliamentary Commissioner for Standards could publish:

Standing Order No. 150 be amended, by inserting the following new paragraph after paragraph 10.

"(10A) The Commissioner shall have leave to publish from time to time-

(a) information and papers relating to-

(i) matters resolved in accordance with paragraph (3) of this order;

and

(ii) complaints not upheld;

and

(b) information about complaints received and matters under investigation."⁵²

Secondly, it agreed to allow the Parliamentary Commissioner for Standards to initiate investigations:

Standing Order No. 150 be amended, by leaving out paragraph (2)(e) and inserting in its place:

"(e) to investigate, if he thinks fit, specific matters which have come to his attention relating to the conduct of Members and to report to the Committee on Standards and Privileges or to an appropriate subcommittee thereof, unless the provisions of paragraph (3) apply.

(2A) In determining whether to investigate a specific matter relating to the conduct of a Member the Commissioner shall have regard to whether in his view there is sufficient evidence that the Code of Conduct or the rules relating to registration or declaration of interests may have been breached to justify taking the matter further ."⁵³

⁵² HC Deb 2 December 2010 c1016

⁵³ HC Deb 2 December 2010 cc1016-1017