

CODE OF CONDUCT FOR THE JUDICIAL APPOINTMENTS COMMISSIONERS

February 2009

Background

This document covers a Code Conduct for the Chairman and Commissioners for the Judicial Appointments Commission. This code is in line with the recommendations of the Cabinet Office in respect of the establishment of Executive Non-Departmental Public Bodies (NDPB). It also takes account of the Commission's statutory functions, duties and powers as set out in the Constitutional Reform Act 2005, and the JAC Framework document and associated Financial Memorandum. This code also refers to best practice expected from the Chairman and Commissioners.

Public service values:

The members of the Judicial Appointments Commission must at all times:

- ensure that statutory duties are complied with, and statutory functions delivered in connection with judicial appointments;
- observe the highest standards of impartiality, integrity and objectivity in relation to the advice they provide and the management of the Judicial Appointments Commission;
- be accountable to Parliament and the public more generally for its activities; including stewardship of public funds;
- not disclose confidential information except with lawful authority, but otherwise act in accordance with Government policy on openness and comply fully with the Freedom of Information Act 2000 and
- act in accordance with the Standards of Public Life contained in **Annex 1**.

Relationship with the Ministry of Justice

The Lord Chancellor is answerable to Parliament for the performance of the Judicial Appointments Commission, the guidance within which it performs its duties and functions, and its use of the resources granted to the Commission. The roles of the Lord Chancellor and the operation of the Commission are specified in the Framework document and Financial Memorandum. This covers the terms and arrangements for funding and expenditure by the Commission.

Communications

Communication between the Commission and the Lord Chancellor will be through the Chairman or a nominated Commissioner. The day to day administrative communication between the Commission and the Ministry will be through the Chief Executive or an authorised member of the Commission's staff.

Role of the Chairman

This is set out in detail in the Commission's Framework document. The Chairman is responsible for ensuring that the policies are in line with the guidance issued by the Lord Chancellor, and for probity in how the Commission will conduct its affairs.

The Chairman will also be responsible for:

- Ensuring the Commission carries out its statutory functions and duties;
- Formulating and overseeing the Commission's strategy for carrying out the appointment process in line with the Lord Chancellor's guidance;
- Ensuring an effective and efficient Judicial Appointments Commission encouraging high standards of propriety and efficient and effective use of staff and other resources through the management of the Chief Executive;
- Working with the Ministry in respect of the appointment of individual Commission members, maintaining an appraisal of the performance of each Commissioner for consideration for re-appointment and other appointments;
- Advising the Ministry on the appointment or dismissal of a Chief Executive against the criteria specified in their terms of employment;
- Ensuring the Commission has regard to any guidance provided by the Lord Chancellor in accordance with section 65 of the Constitutional Reform Act 2005;
- Proposing the division of responsibilities between Commissioners (for decision by Commission or a committee) and making sure they use their time efficiently;
- Regular meetings, ensuring decisions are properly recorded, individual Commissioners' differences registered.

The secretariat staff allocated to the Chairman will provide administrative support in respect of the management of the Commissioners for appraisal and general personnel management.

Briefing of New Commission Members

The Chairman will be responsible for ensuring that all Commissioners are fully briefed on the terms of their appointment, and their duties and responsibilities within the Commission. In addition, all Commissioners upon appointment will be provided with a copy of the following documentation:

- The JAC Framework Document;
- The relevant Corporate and Business Plan, and Annual Report;
- Information relating to the organisation and structure of the Commission;
- Any guidance provided by the Ministry in respect of the operation of the Commission in line with the Constitutional Reform Act 2005;
- The method of working for Commissioners in respect of the appointment process.

The JAC Secretariat will ensure that such documentation is made available to the Chairman and Commissioners when required. The Chairman will be involved in the development of the JAC Corporate Plan, Business Plan, and Annual Report as part of their responsibilities.

Responsibilities of Individual Commission Members

The Chairman and Commission Members should be aware of their responsibilities as members of the Judicial Appointments Commission. They will be expected to follow the standards of public life as laid out in **Annex 1**.

Commission Members must:

- Comply with this Code of Practice and any subsequent changes. Any breach of this will be dealt with under the disciplinary procedure at **Annex 2**;

- Act in good faith and in the best interest of the Commission;
- Not misuse any information gained in the course of this appointment for personal gain or political purposes, or to promote their private interests or other connected firms, persons, etc, and declare any private interests which may conflict with their public duties;
- Ensure they comply with the Commission's rules on the acceptance of gifts and hospitality;
- Be politically neutral in dealings with the work of the Commission and not indicate any political affiliations;
- Ensure confidentiality in respect of their involvement with appointments and safeguard any personal information relating to such.

Commissioners will also be expected to follow the guidance in **Annex 4** covering the Addison Rules and if expected to appear in front of a Select Committee in **Annex 5**.

Personal liability of Commissioners

Although legal proceedings by a third party against individual Commissioners may be exceptional, a Commissioner may be personally liable if he or she makes a fraudulent or negligent statement which results in a loss to a third party; or may commit a breach of confidence under common law or a criminal offence under insider dealing legislation, if he or she misuses information gained through their position considered to be a criminal breach of confidentiality provisions. However, if individual Commissioners have acted honestly, reasonably and in good faith they will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their board functions, save where he or she has acted recklessly. This will not apply to Commissioners who breach the confidentiality provisions of Section 139 of the Constitutional Reform Act 2005.

Corporate Responsibilities

Where applicable, the corporate responsibilities of the Chairman and other Commissioners are specified within the Commission's Framework Document and Financial Memorandum. The Chairman of the Commission should ensure through the Chief Executive:

- That high standards of corporate governance are in place, including the necessary financial controls, compliance and risk management and the conditions relating to the grant-in-aid provided by the Ministry;
- That the Chairman or other members of the Commission must not give the Chief Executive instructions that will conflict with those duties laid down as the Commission's Accounting Officer;

And:

- That the Commission acts within the limits of its statutory authority as set out by the Constitutional Reform Act 2005;
- To establish an overall strategic direction, with the other Commissioners, for the Commission within the resources, framework and guidance set down by the Lord Chancellor;
- That the Commission complies with all relevant legislation relating to its operation, including those relating to the employment of staff;
- That the Chairman or Commissioners should maintain a balance in commenting on Ministry policy in relation to the views of the Commission, and avoid political lobbying on any aspect of the Commission's work.

Strategic planning and control

One of the main tasks of the Commission is likely to be oversight of the production of a corporate plan. The process of preparing such a document provides an opportunity for agreeing, with the responsible Minister, or officials on his or her behalf, the policy and resources framework within which the body will discharge its duties; and for determining its key strategic objectives and targets. Such targets should normally cover areas such as the organisation's financial performance; the efficiency and effectiveness of its operations; and the quality of the services it provides. Some public bodies cannot easily measure final outputs. Where this makes it difficult to set suitable performance targets, the Commission should aim to agree carefully formulated strategic objectives and milestones.

Meetings

The Chairman of the Commission will be responsible for the establishment and regular meetings of the JAC Management and Strategy Board. These should be held at regular intervals, with recorded minutes of decisions taken and differences registered.

Training

The Chairman of the Commission will ensure that each Commissioner will receive training in relation to their appointment to the Commission if required.

Handling conflicts of interests

The Chairman and other Commissioners should declare any personal or business interests that may conflict with their responsibilities as Commissioners. The Commission, in consultation with the Ministry, should draw up rules of conduct for Commissioners that ensure that such conflicts are identified at an early stage and that appropriate action can be taken to resolve them.

The rules should include the keeping of a register of interests appropriate to the body's activities. The register should, as a minimum, list personal direct or indirect pecuniary interests which members of the public might reasonably think could influence Commissioners' judgement. Commissioners are strongly encouraged to register non-pecuniary interests that relate closely to the body's activities, and interests¹ of close family members and persons living in the same household as the Commissioner .

The Commission should make registers of interests open to the public. They should ensure that details of how access can be obtained are available widely and include such details in annual reports. It will often be appropriate to publish registers of interests annually. Commissioners should in any case be required to update them as changes occur.

In the absence of specific statutory provisions, the common law requires:

That members of public bodies should not participate in the discussion or determination of matters in which they have a direct pecuniary interest; and

That when an interest is not of a direct pecuniary kind, members should consider whether participation in the discussion or determination of a matter would suggest a real danger of bias. This should be interpreted in the sense that members might either unwittingly or otherwise unfairly regard with favour or disfavour, the case of a party to the matter under consideration. In considering whether a real danger of bias exists in relation to a particular

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Indirect pecuniary interests arise from connections with bodies, which have a direct pecuniary interest, or from being a business partner of, or being employed by, a person with such an interest. Non-pecuniary interests include those arising from membership of clubs and other organisations. Close family members include personal partners, parents, children (adult and minor), brothers, sisters and the personal partners of any of these.

decision, members should assess whether they, a close family member, a person living in the same household as the board member, or a firm, business or organisation with which the board member is connected are likely to be affected more than the generality of those affected by the decision in question. This would cover, for example, a decision to invite tenders for a contract where a firm with which a member was connected was significantly better placed than others to win it would.

Where, in accordance with the above, members do not participate in the discussion or determination of a matter, they should normally withdraw from the meeting, even if it is held in public. This is because the continued presence of someone who had declared an interest might be thought likely to influence the judgement of the other members present.

Commissioners should obtain legal advice on the effect of any specific statutory provisions applying to them.

Whether or not Commissioners are able in the light of the considerations above to participate in the discussion or determination of a matter, they should declare as soon as practicable after a meeting begins if they have an interest, pecuniary or other, in a matter being considered. They should also disclose any interests in it of which they are aware on the part of close family members and persons living in the same households as the Commissioner. In addition, Commissioners should consider whether they need to disclose relevant interests of other persons or organisations which members of the public might reasonably think could influence the Commission judgement.

Because executive NDPBs are required, other than exceptionally, to follow generally accepted accounting practice, Commissioners must facilitate compliance with the need under Financial Reporting Standard 8 for material transactions with related parties to be disclosed in financial statements. "Related parties" in FRS 8 include (in addition to business contacts) close members of the family of an individual, who are defined for the purposes of the standard as those family members, or members of the same household, who may be expected to influence, or be influenced by, that person in their dealings with the reporting entity.

The Commission should adopt safeguards to prevent conflicts of interests arising from the acceptance of outside appointments during or after tenure as a Commissioner, taking account of guidance from the Ministry's sponsor team.

Role of the Chief Executive

The Chief Executive has responsibility for the overall organisation, management, and staffing of the Commission and for its procedures in financial and other matters, including conduct and discipline. This involves the promotion by leadership and example of the values embodied in the Seven Principles of Public Life. The Chairman should support the Chief Executive in undertaking this responsibility.

The Chief Executive of the Commission is the accounting officer for the body. NDPB accounting officers are responsible to Parliament and the accounting officer of the responsible department for the resources under their control. The essence of the role is a personal responsibility for the propriety and regularity of the public finances for which they are answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the resources in their charge. The accounting officer has a responsibility to see that appropriate advice is tendered to the board on all these matters. Satisfactory performance of these responsibilities is fundamental to the role of the chief executive.

More detailed guidance on the role of an accounting officer is set out in *The Responsibilities of a NDPB Accounting Officer*, which covers appearances before the Committee of Public Accounts of the House of Commons. The Chief Executive should ensure that they have a copy of this document. The contents of the memorandum apply to the senior full-time official of an NDPB in cases where there is no formally designated accounting officer. The Treasury's handbook, *Regularity and Propriety*, describes what these concepts mean in a financial context. Although the handbook is intended primarily for accounting officers, the Chairman and members of the Commission should also familiarise themselves with it.

Annual Reports and Accounts

The Chairman shall ensure that the Commission complies with the JAC Financial Memorandum, **External Accountability**, paragraphs 66-69 in respect of accounts, audit and the provision of reports through the Chief Executive. Furthermore, the Chairman must ensure compliance for all Commissioners in respect of Financial Reporting Standard 8 (FRS8), in disclosing any material transaction with related parties. These include close family members or members of the same household as defined in the standard.

Delegation

Commissioners normally serve on a part-time basis. To the extent permitted by the originating legislation or other provisions under which the Commission is established, responsibility for day-to-day management matters should be delegated to staff so far as is practicable, within a clearly understood framework of strategic control. The Commission will want to consider internal guidance covering those matters delegated to staff and those reserved for decision by the board. The latter are likely to include issues of corporate strategy; key strategic objectives and targets; major decisions involving the use of financial and other resources; and personnel issues including key appointments and standards of conduct.

The Commission may decide to delegate responsibility for specified matters, where it has power to do so, to individual members or committees of the Commission. Decisions taken by individual members or committees of the Commission under delegated powers should be recorded in written minutes available to the Commission as a whole.

Audit Committee

Unless agreed otherwise with the Ministry, the Commission should establish an audit committee as a committee of the JAC Management board. The committee should consist of non-executive board members if appointed and should be chaired by a non-executive board member or other board member, other than the Chairman, who has experience of financial matters. The responsibilities of the audit committee will overlap with those of the accounting officer. It is envisaged that he or she will normally attend all meetings of the audit committee, unless, exceptionally, his or her own performance is being discussed. The role of the Committee is explained in **Annex 3**.

The Commission as an employer

The Commission should ensure:

- That it complies with all relevant legislation and that it employs suitably qualified staff who will discharge their responsibilities in accordance with the high standards expected of staff employed by such bodies. All staff should be familiar with the Commission's main aims and objectives;
- That the Commission adopts management practices which use resources in the most economical, efficient and effective manner;
- That the Commission's rules for the recruitment and management of staff provide for appointment and advancement on merit on the basis of equal opportunity for all applicants and staff. In filling senior staff appointments, the board should satisfy itself that an adequate field of qualified candidates is considered, and should always consider the merits of full and open competition. In recruiting external candidates, these rules should normally be followed and
- That its staff, and the Commissioners, have appropriate access to expert advice and training opportunities in order to enable them to exercise their responsibilities effectively (in line with wider Government commitments on training strategies).

The Commission should adopt a code of conduct for its staff using the model issued for executive NDPBs by Cabinet Office in August 1996, subject to any modifications that may be necessary – and that are agreed with the Ministry to take account of their own particular

characteristics and circumstances. The model code covers arrangements enabling members of staff to raise concerns about propriety with a nominated official or Commissioner of the NDPB in the first instance and subsequently, if necessary, with a nominated official in the sponsor department. There should be safeguards to prevent conflicts of interests when staff leave.

The Chairman has a responsibility to monitor the performance of the Chief Executive and other senior staff. Where the terms and conditions of employment of the Chief Executive and other senior staff include an entitlement to be considered for performance-related pay, and where such payments are assessed by the Commission, the Chairman should ensure that they have access to the information and advice required to make the necessary judgements.

- Annex 1: Standards in Public Life

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisation that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Annex 2: Disciplinary Procedures

1. The principles under which a Commissioner holds office are laid out in this Code of Practice. All Commissioners are obliged to follow these principles, including the Chairman. Where this involves the Chairman of the Commission, the Lord Chancellor will take the role of the Chair in investigating the complaint or delegate this function to an officer of the Ministry.

Removal

2. In addition the Constitutional Reform Act 2005 provides that a Commissioner including the Chairman, may be removed by Her Majesty on the Lord Chancellor's recommendation if he or she has:
 - (a) Failed without reasonable excuse to discharge the functions of his or her office for a continuous period of at least six months;
 - (b) Has been convicted of any offence;
 - (c) Is an undischarged bankrupt;
 - (d) Is otherwise unfit to hold his or her office or unable to discharge its functions.

Investigating Alleged Breach of Duty

3. On receipt of such an allegation relating to a Commissioner, the Chairman shall, after seeking clarification:
 - (a) Inform the Commissioner in writing of the details of such allegation and invite them to submit written comments with 14 days or any specified period;
 - (b) Notify the Lord Chancellor he/she has done so.
4. After consideration of the Commissioner's written comments, if the Chairman is satisfied on the basis of the information provided, that the allegation is unfounded, no further action is taken and the Commissioner, the Lord Chancellor and the person making the allegation is notified of the decision.
5. The Chairman may delegate this function to another Commissioner or senior member of the JAC if needed.

Investigation

6. If the Chairman or his/her nominated deputy is satisfied that on the basis of the information made available to him/her, that a breach of duty has occurred, he/she will take the following steps:
 - (a) Notify the Commissioner that the allegation will be investigated;
 - (b) Enclose a copy of this procedure;
 - (c) Set a date for the Commissioner to meet the Chairman within a specified period;
 - (d) Inform the Commissioner of their entitlement to be accompanied or legally represented at the meeting or at any subsequent stage of the investigation.
7. The Chairman will meet the Commissioner to discuss the alleged breach and decide the appropriate course of action. The Commissioner may wish to be accompanied or be legally represented at the meeting.
8. Once such a meeting has taken place. The Chairman after due consideration of all the relevant factors, including any further investigation they consider necessary, shall

- (a) Dismiss the allegation;
 - (b) Direct further investigation;
 - (c) Suspend the Commissioner's appointment pending such investigation;
 - (d) Invite the member to resign;
 - (e) Advise termination of the Commissioner's appointment;
 - (f) Direct any other action he considers necessary.
9. Should the Lord Chancellor suspend the Commissioner's appointment, he may direct whether this should be with or without remuneration if applicable.
10. The Commissioner will be informed in writing immediately following the Lord Chancellor's decision.

Further Investigation by the Lord Chancellor

11. The Lord Chancellor will have the option of appointing a person of his choosing as an investigating officer, should he feel a further investigation is necessary. Should this be followed:
- (a) The Investigating Officer may seek further evidence and interview persons as necessary;
 - (b) The Investigating Officer shall report their findings to the Commissioner concerned and invite them to comment with a specified period;
 - (c) At the conclusion of the investigation, the Investigating Officer will report their findings together with Commissioner's comments to the Lord Chancellor.
12. After consideration of the report and recommendations, the Lord Chancellor shall determine the matter and communicate this and if appropriate Her Majesty's, decision to the Commissioner either in person or in writing. If given in person, it will also be confirmed in writing.
13. In all stages of any investigation, the Commissioner in question is entitled to be legally represented at their own expense, and should inform the Chairman or Lord Chancellor in writing of their representative.
14. These procedures will be conducted in confidence, except where there is any suspicion of criminal conduct that will require the matter to be notified to the relevant authority, or where the person may be in breach of any professional code to the professional body.
15. The Lord Chancellor may decide to publicise his decision at the conclusion of any investigation.

Annex 3: Audit Committees

1. The Guidance on Codes of Practice recommends that all public bodies, unless otherwise agreed with their sponsor department, should set up an Audit Committee as a committee of the board. This note provides further guidance.
2. The Audit Committee is an advisory body with no executive powers. Its main functions should be:
 - to help promote the highest standards of propriety in the use of public funds and encourage proper accountability for the use of those funds;
 - to improve the quality of financial reporting by reviewing internal and external financial statements on behalf of the board;
 - to promote a climate of financial discipline and control which will help to reduce the opportunity for financial mismanagement; and
 - to promote the development of internal controls systems that will help satisfy the board that the body concerned will achieve its objectives and targets and is operating:
 - (i) in accordance with any statutory requirements for the use of public funds;
 - (ii) within delegated authorities laid down by the sponsor department and the public body's own rules on what matters should be referred to the board;
 - (iii) in a manner which will make most economic and effective use of resources available.
3. A non-executive board member, other than the Chairman, who has relevant experience and expertise, should chair the Audit Committee. Other members of the Committee should be non-executive board members.
4. The Treasury has issued *The Audit Committee Handbook* for Accounting Officers in departments and Executive Agencies. The Dear Accounting Officer DAO(GEN)17/03 www.hmtreasury.gov.uk/media/1B6/40/dao1703.pdf which advises Accounting Officers about the publication of the Handbook points out that the handbook has been developed based on the accountability structure of a department or Executive Agency and that NDPBs may need to translate the guidance to suit their own particular circumstances.

Specimen Terms of Reference

Constitution

(1) The Commission hereby resolves to establish a committee of the Commission to be known as the JAC Audit Committee.

Membership and attendance

(2) The Chair, members and secretary of the Audit Committee shall be non-executive Board members and shall be appointed by the Board if such members are appointed. The Chair shall be a non-executive member of the Board other than its Chairman if practical. Membership should be determined in line with the HM Treasury Audit Committee Handbook 2003.

(3) Board members who are not members of the JAC Audit Committee should have the right of attendance. The secretary will circulate minutes of meetings of the Audit Committee to all members of the Board.

(4) The Chief Executive in his or her role as accounting officer, the Finance Director and nominated Ministry Internal Audit representative will normally attend meetings of the Committee.

Frequency of meetings

(5) The Board shall determine how often the Committee shall meet. The external auditor may request a meeting if he considers one necessary.

Authority

(6) The JAC Audit Committee is an advisory body with no executive powers. However, it is authorised by the Commission to investigate any activity within its terms of reference, and to seek any information it requires from staff, who are requested to co-operate with the Committee in the conduct of its inquiries. Requests for work, and reports received, from internal audit will be channelled through the accounting officer, to whom the Head of Internal Audit reports.

(7) The Audit Committee is authorised to obtain independent professional advice if it considers this necessary.

Duties

(8) The specific duties of the Committee shall be:

- (a) to review the body's internal and external financial statements and reports to ensure that they reflect best practice;
- (b) to discuss with the external auditor the nature and scope of each forthcoming audit and to ensure that the external auditor has the fullest co-operation of staff;
- (c) to consider all relevant reports by the Comptroller and Auditor General or the appointed external auditor, including reports on the body's accounts, achievement of value for money and the response to any management letters;
- (d) to review the effectiveness of the Commission's internal control system established to ensure that the aims, objectives and key performance targets of the organisation are achieved in the most economic, effective and environmentally preferable manner;
- (e) to ensure that the Commission's internal audit service provider meets, or exceeds, the standards specified in the Government Internal Audit Manual, complies in all other respects with these guidelines and meets agreed levels of service;
- (f) to consider and advise the board on the Commission's annual and long-term audit programme;
- (g) to consider internal audit reports, including value-for-money reports and the arrangements for their implementation;
- (h) to review the operation of the Commission's code of practice for Commissioners and code of conduct for JAC staff;
- (i) to consider any other matters where requested to do so by the Commission; and
- (j) to report at least once a year to the Commission on the discharge of the above duties.

Annex 4: Addison Rules

1. A peer who is a member of a public board, whether commercial or non-commercial in character, is not by reason of such membership debarred from exercising his or her right to speak in the House of Lords, even on matters affecting the Board of which he or she is a member; and it is recognised that, in the last resort, only the Peer concerned can decide whether he or she can properly speak on a particular occasion.

2. The following guidance (based upon that given by the then Leader of the House Viscount Addison, after consultation and agreement between the parties) may be helpful to Peers, who are considering whether or not to take part in a particular debate.

i. When questions affecting a particular board or public board in general arise in Parliament the present Minister and the Government of the day generally are alone responsible to Parliament. The duty of reply rests with Ministers only, and cannot devolve upon members of public boards who may also be members of the House of Lords. There can be no question of Board members replacing, or usurping the functions of, Ministers and dealing with matters of ministerial responsibility. In the Commons, of course, the possibility could not arise, because a Member of the House must resign his seat on accepting an appointment of this nature.

ii. It is important that, as contemplated in the Statutes and, in the case of the BBC, by the Charter, the Boards shall be free to conduct their day to day administration without the intervention of Parliament or Ministers, except where otherwise provided. If Board members who happen also to be peers were to give the House information about the day to day operations of the Board or to answer criticisms respecting it, the House would in fact be exercising a measure of Parliamentary supervision over matters of management. It would also be difficult for the responsible Minister not to give similar information to the House of Commons.

iii. There is no duty upon the board member to answer questions put to him in debate, and that no criticism should attach to any Board member who refrains from speaking in a debate. Nor should the fact that a member spoke in a particular debate be regarded in any way as precedent for him or any other member speaking in any other debate.

iv. The above applies only to debates relating to public boards. Experience acquired as a member of a public board will often be relevant to general debates in which the same contributions do not arise, and the contributions of board members who are peers may be all the more valuable because of that experience.

3. The statement below, taken from the memoranda, best sums up the intentions behind Lord Addison's Rules.

"The House of Lords is a sensible body; and the latitude to speak or refrain from speaking, inherent in a peer, is not likely to cause embarrassment. Indeed, any attempt to lay down a hard and fast rule would be more likely to cause embarrassment".

Annex 5: Evidence to Select Committees

1. Departmental Select Committees have an important role in examining the expenditure, administration and policies of NDPBs. The Government fully supports this role. Lords Committees and other Committees may also seek evidence from NDPBs from time to time.
2. NDPB Board members may, on occasion, be invited to give evidence to Select Committees. When they do so, they should be as helpful as possible in providing accurate, truthful and full information refusing to provide information only when disclosure would not be in the public interest. This should be decided in accordance with the relevant statutes and the Freedom of Information Act. Commissioners should bear in mind in this context the need to respect legitimate Board confidences.
3. Before giving evidence, Board members may find it helpful to see *Departmental Evidence and Response to Select Committees* (also known as the *Osmotherly Rules*). This gives general advice on dealing with Select Committees including their powers to summon witnesses and papers and responses to Select Committee reports.
4. Similarly, the Chief Executive of an NDPB may be called, as an Accounting Officer, to give evidence to the Public Accounts Committee (PAC). Guidance on giving evidence to the PAC is set out in the *Accounting Officer Memorandum* that can be obtained from the Treasury Officer of Accounts.
5. Board members wishing to give evidence should, as a matter of courtesy, advise their Chairman and colleagues on the NDPB Board and its sponsoring department of their intention. They should discuss with them the handling of any oral or written evidence they want to submit and whether they expect to be giving evidence on behalf of the NDPB or in a personal capacity. The Select Committee should be advised of the status of the witness.
6. Subject only to a Committee's power to decide to require the attendance of a witness, the decision on whether to give evidence is solely for the individual concerned. There must be no pressure placed on individuals to deter them, or action taken against them as a consequence of giving evidence to a Select Committee. Any such actions might be regarded as a contempt of the House, with potentially serious consequences for those involved.