



House of Commons
Committee on Standards

Patrick Mercer

Eleventh Report of Session 2013–14



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*Ordered by the House of Commons
to be printed 29 April 2014*

The Committee on Standards

The Committee on Standards is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

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[Annette Brooke MP](#) (Liberal Democrat, Mid Dorset and North Poole)

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Annette Brooke MP (Liberal Democrat, Mid Dorset and North Poole)

Powers

The constitution and powers of the Committee are set out in Standing Order No. 149. In particular, the Committee has power to order the attendance of any Member of Parliament before the committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at: <http://www.parliament.uk/standards>

Committee staff

The current staff of the Committee are Eve Samson (Clerk), Danielle Nash (Second Clerk) and Miss Christine McGrane (Committee Assistant).

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Report

Introduction

1. This case arises from a media investigation first published through articles in the Daily Telegraph and on the BBC News website.¹ Patrick Mercer, the MP for Newark, was approached by a journalist purporting to be a public affairs consultant representing a group called “Friends of Fiji”, who wished to campaign for the readmission of Fiji into the Commonwealth, and sought to do so by hiring people to use influence on its behalf. The journalist, whose real name was Daniel Foggo, used the alias Daniel Mann in his dealing with Mr Mercer, and we use this name in our report.

2. Between the initial approach from the “consultant” on 6 March and the last meeting between them on 25 April, Mr Mercer tabled five Parliamentary questions² and an Early Day Motion (EDM),³ and actively sought to set up an All-Party Parliamentary Group (APPG) on Fiji.⁴ On 31 May 2013 articles appeared in the Daily Telegraph about the case, and a Panorama programme was broadcast on 6 June 2013. As a result, Mr Mercer referred himself to the Parliamentary Commissioner for Standards. He did not identify the potential breaches of the Code involved, so in her memorandum the Commissioner determined that the issues she should investigate were that contrary to the rules of the House, Mr Mercer had:

- failed to register monies received for the provision of consultancy services;
- failed to deposit an agreement for the provision of services;
- failed to declare a relevant interest when tabling five parliamentary questions, when tabling an early-day motion, when making approaches to other Members, and at a meeting of a prospective All-Party Parliamentary Group; and
- tabled parliamentary questions and an early-day motion, and taken steps to establish an All-Party Parliamentary Group, at the request of paying clients.⁵

The Commissioner also considered whether Mr Mercer’s conduct was such as to cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

1 [WE 1](#) and [WE 2](#)

2 About 45,000 parliamentary question for written answer are tabled each year.

3 Well over 1,000 EDMs are tabled each year. It is extremely rare for any of these Motions to be actually debated: they serve rather as expressions of opinion (in up to 250 words) which may attract the names of other backbench MPs in support.

4 A list of the 599 currently registered All Party Groups (of which 133 are “country” Groups) may be seen on the Parliamentary webpages at House of Commons - Register of All-Party Groups

5 [WE 7](#)

3. To ensure absolute accuracy, the Commissioner has based her findings on the transcripts of the interviews which took place, not on the programmes and articles derived from them. We agree that this is the appropriate way to proceed.

4. The television company which conducted the sting raised questions about the probity of Mr Mercer's involvement with the APPG for Specialist Security. We understand that a complaint to the Commissioner's predecessor was not accepted for investigation. The current Commissioner did not reopen this matter, which was not raised in the documentary.

5. We first considered the Commissioner's memorandum on this case at our meeting on Tuesday 8 April 2014. After that meeting, but before a report had been made to the House, we became aware that Mr Mercer's submission to the Parliamentary Commissioner for Standards had not been circulated. As it would have been improper to take a final decision without considering this evidence we held our decision over until 29 April.⁶

Key findings

6. The Commissioner's memorandum summarises Mr Mercer's evidence, and comes to clear conclusions. Mr Mercer readily signed an agreement for consultancy services with the "consultant". He failed to register this agreement. Mr Mercer also failed to declare his interest when tabling parliamentary questions and an EDM about Fiji. We also agree with the Commissioner that it is more likely than not that he failed to declare his interest at the inaugural meeting of the APPG.

7. These failures to register and declare are in themselves serious matters. The rules about declaration are stringent, and should be properly observed. The Committee on Standards and Privileges made it clear that it would regard it as a very serious breach of the rules if a Member failed to register or to declare an interest which was relevant to proceeding which he or she had initiated, and that similar considerations would apply in the case of approaches to Ministers and others.⁷ **Mr Mercer deliberately evaded the rules about registration and declaration, which are intended to provide transparency and accountability.**

8. The most serious matter considered by the Commissioner was whether Mr Mercer was willing to use his position as an MP to further the interests of paying clients, through taking part in parliamentary proceedings or setting up an APPG. Mr Mercer's actions, and on many occasions, his words, showed that he was indeed willing to use his parliamentary position for his own gain.

9. Mr Mercer struck out references to Fiji in the contract he signed, and occasionally claimed that he was not being paid for work to do with his parliamentary duties. Similarly,

6 The Committee's report of 8 April was rescinded at a meeting on 9 April. The text is in the formal minutes relating to this report, which are included at the back of this Report.

7 House of Commons, [The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2012](#), Session 2010–12, HC 1885, para 97

the documents prepared relating to the APPG mentioned the need to comply with the rules. A briefing noted:

UK All Party Parliamentary Group (APPG) must conform to the 26 page rule book and ensure that it registers financial and benefits in kind. Given the media interest, an APPG must tread very carefully to not only conform to the letter and spirit of the rules but be seen to be above reproach.⁸

Mr Mercer prepared a note for “Mr Mann” which stated “It is absolutely vital to have a political operator who organises a determined, *ethical* but effective campaign [emphasis added]”.⁹ Paying lip service to the rules is not sufficient; as the Committee would expect, the Commissioner has examined Mr Mercer’s actions, and we too will do so.

10. Mr Mercer’s claim that he had a genuine interest in Fiji because of his army experience working with Fijian soldiers and because the country’s sugar industry was a potential competitor to business in his constituency is thin. As the Commissioner sets out:

Mr Mercer tabled a single question in 2002, and gave two press statements, five years apart, in 2004 and 2009, all of which related to the position of Fijian soldiers in the British Army. In April/May 2013 he tabled five (or six, given that one was ‘carded’) questions plus an early-day motion all related to the position of Fiji itself and its membership of the Commonwealth. This was very different and happened very shortly after Mr Mercer had established a commercial relationship with Mr Mann and signed a contract with Alistair Andrews Communications. It was also done in response to prompting from Mr Mann.¹⁰

On 8 May Mr Mercer was emailed 20 Parliamentary Questions on Fiji and Australasia by an associate, which were submitted to the Table Officer but were “carded”, ie Mr Mercer was invited to discuss their drafting.¹¹

11. When Mr Mercer was pressed about questions he had been asked to table by “Alistair Andrews Communications” he was happy to respond. He regularly reported back on progress in setting up an APPG. He offered to procure a pass for a member of staff of that APPG. While he warned that he could not guarantee a “satisfactory” report from the APPG, he was quick to reassure his client that it was likely that such a report would achieve their aims.¹² In addition to his actions in tabling questions and in setting up an APPG, identified by the Commissioner, the transcripts make clear Mr Mercer also volunteered to make approaches to a Minister and host the “*Friends of Fiji*” in the House of Commons.¹³

8 [WES](#), p 10

9 [WES](#), Appendix 9, p 72

10 Appendix 1, para 115

11 [WES](#), Appendix 3, pp 54–56

12 WET 9, 10 and 11, pp 73, 89 and 121–126

13 WET 3, 8 and 9, pp 16, 56–57 and 74–75

12. While the Commissioner’s report is comprehensive, it is Mr Mercer’s own evidence, taken together with the transcripts, which has troubled us most. His initial response to the Commissioner contains assertions which are at odds with the transcripts of his dealings with the undercover journalist. Mr Mercer claims to have repeatedly pressed for details of his clients: the transcript reveals him speaking about their interests without trying to establish who they are, and only raising the matter when a colleague raised concerns about the identity of “Alistair Andrews Communications.” As the Commissioner says:

Mr Mercer had a responsibility to know who was employing him and to declare that information to the Registrar and to the House on appropriate occasions.¹⁴

Mr Mercer broke the rule against paid advocacy. We agree with the Commissioner that “It cannot be any defence to an allegation of paid advocacy that Mr Mercer did not know who was paying him”. Despite his assertions, we see no evidence that Mr Mercer made any serious attempt to identify his ultimate clients.

Providing employment for an associate

13. We are particularly concerned that Mr Mercer appears to have been motivated at least in part by the prospect of being able to provide employment for Mr Paul Marsden, a business associate.

14. Mr Mercer’s evidence indicates that he and Mr Marsden had spoken on the telephone in December 2012 and February 2013, before the undercover reporter contacted him, about an all-party group on Fiji. Mr Marsden told the Commissioner that part of the motivation was financial:

KH—It looks to me like you spent a tremendous amount of time doing work on some of this. Was that in the hope that some consultancy would develop out of it?

P—To be honest, yes.¹⁵

15. Mr Mercer pressed the idea of a “foundation” to support the APPG, which would be funded by the “Friends of Fiji”. Mr Mercer’s evidence to the Commissioner makes it clear that part of his motivation was to find employment for his Mr Marsden:

KH—[...]. So look, we got to a point—certainly this is the way it comes from Mr Marsden—where there was a possibility that you could use the work that Daniel Mann wanted done to forward the work that you also wanted done on Fiji, and, not to put too fine a point on it, to find some work for Paul Marsden to do.

14 Appendix 1, para 130

15 [WE 33](#)

PM—Yes, I don't think there's—well, I would certainly—

KH—That is certainly the way that Paul Marsden tells the story.

PM—Yeah, yeah, I wouldn't disagree with the latter half of that.¹⁶

16. Mr Mercer claimed that the motivation for a foundation to support the APPG was that it would protect the APPG from direct influence. We consider that the real motivation in fact is given in Mr Marsden's evidence, namely that a foundation “had more freedom to operate”.¹⁷ There is certainly nothing in the transcripts of conversations with “Mr Mann” to suggest that the foundation would act as a buffer between the APPG and the “clients”. Instead it is suggested that as APPGs have to abide by rules, a foundation might be a more effective way to press their interests rather than an APPG alone:

PM: Unless you have an engine..., behind the APPG... the APPG will flounder. There's different ways of putting an engine behind the APPG... if you separate the AP... the engine of the APPG from the APPG... then the APPG... sorry... then the Foundation has more freedom.¹⁸

17. The transcript of the meeting between Mr Mercer and “Mr Mann” on 15 March shows Mr Mercer pressing to have a foundation to support the APPG; in the meeting on 18 April he presses for Mr Marsden to be in charge of the Foundation, and in a telephone call on 16 April he makes clear that he will be working on the report, and that work on a report can begin even before the APPG is set up. It is clear from the transcript of 25 April that Mr Marsden had sent “Mr Mann” an estimate of the costs of any report.

18. While Mr Marsden's evidence shows that there was some interest in an APPG on Fiji before the approach, we note the following from his evidence:

we agreed that if a) AAC were not going to end this dithering and unethical behaviour or b) there was an alternative project we could engage with then Patrick would cease any involvement with AAC. I agreed to start to look again at other options in Australasia. To that end I did use my old research on other countries. I identified possibly interesting lines of enquiry in The Solomon Islands, Indonesia, Australia and New Zealand as well as Fiji.¹⁹

If Mr Mercer had had a sustained interest in Fiji, there would be no need to look at other Australasian options. The claim that Fiji would be included in a wider Australasian project does not tally with this account.

19. While the rules permit MPs to have external interests, and to use the expertise they gain from them in the service of the House, paid lobbying is prohibited. The rule that no

16 [WE 39](#)

17 [WES](#), Appendix 3, p 40

18 WET 6, p 30

19 [WES](#), Appendix 3, p 53

Member “shall act as a paid advocate in any proceeding of the House” is very long-standing, and has been extended to prohibit lobbying approaches to colleagues, Ministers or servants of the Crown. Mr Mercer’s willingness to establish an APPG to further the interests of the “Friends of Fiji” flouted that rule. **The Commissioner concludes that Mr Mercer’s particular choice of Fiji for an APPG and the attempts to influence positively UK government’s attitude towards his readmissions, “is closely linked to the financial reward that was being offered to himself and that which he was seeking on behalf of” his associate. We agree.**

The APPG

20. In November 2013, this Committee issued a report on APPGs and made a number of recommendations to increase transparency about their funding and support, and to make it clearer which Members were directly involved with their work. We expect that our recommendations will be debated in the very near future. In that report we said:

[...] the Committee recognises, as Ann Coffey MP stated in her evidence to the Committee, that:

Lobbying is part of the parliamentary process, and it is right that people from outside feel that they can contribute to the democratic decisions that are made. It is the strength of democracy

Parliament should not exist in a bubble. Indeed, the House of Commons Outreach service identifies APPGs as one way in which members of the public and campaigning groups can find Members likely to support them. The challenge is to make sure that such lobbying as is permitted is appropriate. Whatever the rules, it is always possible for there to be improper lobbying.²⁰

21. It is clear from the papers submitted by Mr Mercer that he had been casting around for some form of APPG which would provide employment for Mr Marsden. He was willing to seek sponsorship for the APPG. The suggested sponsorship levels²¹ were as follows:

Platinum	£10,000 Gold benefits + invitation to special events
Gold	£5000 Silver benefits + logo on front cover of inquiry report, from that front-page recognition on website and recognition in mailshot to selected key decision-makers inc. Ministers
Silver	£2500 Bronze benefits + logo on inside cover of report and front-page website and in final press release
Bronze	£1000 recognition on inside cover of report and webpages APPG website

20 Committee on Standards, Sixth Report of Session 2013–14, *All-Party Parliamentary Groups*, HC 357, para 19

21 [WES](#), Appendix 3, p 58

Our report on APPGs recognised that:

The fact that APPGs can draw on a variety of funding, including external support, brings significant benefits as well as risks. It enables them to carry out proper research, to network and to conduct public information events.²²

The arrangements proposed went far beyond that. They were designed to ensure that any APPG had the funds necessary to run a Secretariat, regardless of the level of parliamentary interest. The proposal was that the APPG would be supported by a foundation. By Mr Mercer's own account he wanted Mr Marsden to run the foundation. Mr Mercer's submission to "Alistair Andrews Communications" stressed the importance of having "a political operator with many years' experience of both Westminster and Whitehall from a campaigning perspective"²³ to run the group.

22. This committee has recommended, and continues to recommend, transparency about APPG funding. Such transparency should not be confused with encouraging outside interests to "buy the logo of Parliament" and to use their connection with the APPG in mailshots to "selected key decision makers". We are surprised that Mr Mercer apparently saw nothing wrong with this.

23. Mr Mercer's evidence to the Commissioner that when he said that "we will get the conclusion that we want to get" he meant that the APPG would get the conclusion it desired is directly at odds with the transcript of the meeting:

DF: [...] Can I take it as read that this report will be able to conclude something favourable to the client though in terms of the fact that there should be re-entry into the Commonwealth?

PM: I think we could probably get to that one.²⁴

Similarly, at the meeting on 25 April 2013, he reassured "Mr Mann" that work could begin even before the APPG had the full complement of names and that "the work starts as and when you give us directions, or you're I beg your pardon, when I give directions to, to the APPG according to my, my conversations with you, I mean, I, frankly, whatever you say, we're going to do that inquiry". While it is true that Mr Mercer does emphasise the independence of the APPG later in that interview he concludes each of his warnings reassuringly:

honestly Daniel I cannot say to you, look, leave it with me and I will fix this, because clearly that's wrong, you know that's nonsense, I can't do that. What I can say to you is having spoken to Fabian Hamilton in some depth and having spoken to one or two of the other officers about this, er, I am convinced that the, from everything I have heard so far that Fiji...

22 Committee on Standards, Sixth Report of Session 2013–14, *All-Party Parliamentary Groups*, HC 357, para 31

23 [WE 5](#), p 72

24 WET 10, p 89

[end]

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A: [...] would be better off inside the Commonwealth and Commonwealth would be better off having Fiji.

And:

A: I cannot deliver you, er, a report that, that is canted, otherwise it's valueless.

Q: OK, yes, I understand, yeah, it's fine.

OK, er...

00:01:50

A: If you ask me, and and you've said to me am I a betting man, I would be very surprised if we don't find a, a pretty benign picture of what's going on.²⁵

Mr Mercer may have paid lip service to propriety, but it is clear he expected to be able to give his clients the report they wanted.

Conclusion

24. We agree with the Commissioner's conclusion that:

in allowing payment to influence his actions in parliamentary proceedings, in failing to declare his interests on appropriate occasions, in failing to recognise that his actions were not in accordance with his expressed views on acceptable behaviour, in repeatedly denigrating fellow Members both individually and collectively, and in using racially offensive language, Mr Mercer inflicted significant reputational damage on the House and its Members.²⁶

25. This is a very different case from that of Mr Yeo, in which Member accepted a single lunch and the very next day said that he considered the "company" concerned was seeking someone to advance its interests by lobbying which was not compatible with his position as an MP.²⁷ After careful consideration of all the evidence, we have come to the conclusion that the Mr Mercer's actions in pursuing an interest in Fiji through his actions as an MP were motivated by the desire for commercial gain. Mr Mercer may have said that he could not be paid for lobbying, but in fact his actions over five meetings over more than four

25 WET 11, pp 123, 125–126

26 Appendix 1, para 146

27 Committee on Standards, Fifth Report of Session 2013–14, *Mr Tim Yeo*, HC 849

weeks showed that he was not only willing to act in return for payment himself, and the prospect of a job for Mr Marsden, but would use his colleagues to further his clients' interests.

26. Mr Mercer has apologised both to the Commissioner and to ourselves. He has said that he will stand down at the next general election.²⁸ We have no powers in this matter, but we consider in the light of this he should repay the “consultancy fees” or give them to a good cause, if he has not already done so. We recognise Mr Mercer’s contrition. Nonetheless, we consider that this breach of the rules is so serious that this apology and undertaking to stand down is inadequate.

27. There have been cases before our predecessor Committee, the Committee on Standards and Privileges, and its predecessor, the Committee on Members’ Interests, which have had some resemblance to this, but in several such cases, those concerned were no longer members by the time the Committee reported. We are not aware of a case relating to a sitting MP which has involved such a sustained and pervasive breach of the House’s rules on registration, declaration and paid advocacy. In the case of John Browne, before the current system was introduced, the Member failed to declare interests in proceedings and in approaches to Ministers. In the cases of Mr Riddick and Mr Treddinick both Members agreed to accept payment to table a Parliamentary Question, but Mr Riddick returned the payment at the earliest opportunity and Mr Tredinnick attempted to register a one-off consultancy fee.²⁹ More recently, the House of Lords’ Committee for Privileges and Conduct investigated the conduct of two Peers in relation to this journalistic “sting”, and another very like it, and recommended suspensions of four and six months. Four months is insufficient in this case. Mr Mercer, unlike Lord MacKenzie and Lord Laird, undertook parliamentary proceedings for a fee (neither Lord carried through such actions nor did they receive the agreed fee), and took active steps to set up an APPG.³⁰ **Mr Mercer not only engaged in paid advocacy himself, but he also brought the House into disrepute. As the Commissioner said, he involved his colleagues in setting up an APPG to further his commercial interests.**

28. Committees have long been reluctant to recommend expulsion as a penalty. There is a danger that the power of expulsion could be used to remove people because their opinions were unpopular, rather than because of misconduct. Members are elected, and the decision of the electorate should be respected. On 8 April 2014 the Chair of the Committee announced in the House that the Committee had already decided to examine the current system for consideration of complaints about Members of Parliament and to consider improvements as required. That inquiry will be launched shortly. As part of it, we will be consulting on what penalties would be appropriate in future, including the weight which

28 “Patrick Mercer ‘taking legal advice over allegations’”, *ITV News*, 9 June 2013, www.itv.com/news

29 Committee of Privileges, First Report of Session 1994–1995, *Complaint concerning an article in the ‘Sunday Times’ of 10 July 1994 relating to the Conduct of Members*, HC 351

30 House of Lords, [The conduct of Lord Mackenzie of Framwellgate](#), Ninth Report of the Committee on Privileges and Conduct, HL Paper 95; House of Lords, [The Conduct of Lord Laird](#), Tenth Report of the Committee on Privileges and Conduct, Session 2013–14, HL Paper 96

should be given to the fact that Members are elected. At present, although each case is judged on its own merits, as an adjudicatory body we also need to consider any precedents. It would be wrong for us to set those precedents aside without warning.

29. In similar cases, the Lords Committee on Privileges and Conduct recommended suspensions of four and six months. While we recognise that suspension will have an effect on Mr Mercer's constituents, we are mindful of the precedent in the Lords. **We recommend that Mr Mercer be suspended from the House (which, unlike the penalty for Members of the House of Lords, includes loss of salary and pension contributions for the entire period of suspension) for a period of six calendar months.** The suspension we propose is the longest put forward since 1947, with the exception of that proposed for Mr Denis MacShane, who was subsequently convicted of criminal offences.

Appendix 1: Memorandum from the Parliamentary Commissioner for Standards—Allegations against Patrick Mercer

Background

1) On 31 May 2013, articles appeared in *The Daily Telegraph*¹ and on the BBC News website. These alleged that Mr Mercer had agreed to table parliamentary questions and to set up an all-party parliamentary group on Fiji in return for payments offered by an undercover journalist. The journalist, Daniel Foggo, who called himself Daniel Mann, was posing as an employee of a fictitious lobbying company, Alistair Andrews Communications, representing interests in Fiji. The articles were accompanied by video footage, some of which was subsequently shown as part of a BBC “Panorama” programme broadcast on 6 June 2013.

2) This report is about Mr Mercer’s conduct alone, and references to other Members should not be taken as critical of them. In particular, there are references to the involvement of Mr David TC Davies (the Member for Monmouth) in the fourth interview between Mr Mercer and Mr Mann. While some of the information relating to Mr Davies is important to the evidence in this case, Mr Davies’ behaviour was in no way improper and this report does not criticise him in any way.

The Referral

3) On 3 June 2013, Mr Mercer, the Member for Newark, wrote to me² to refer himself and request that I investigate “recent allegations” made about him. He gave no further information. In deciding whether or not to accept a complaint or self-referral for investigation, I consider whether there is sufficient evidence to justify the initiation of an inquiry. In normal circumstances I would expect the complainant, or a Member self-referring, to set out the allegations to be investigated. However, having seen the media coverage and the quantity of material that was already in the public domain, I decided to start an inquiry on my own initiative and to determine for myself the issues for investigation. The matters I investigated, set out in my letter to Mr Mercer of 3 June 2013,³ were that, contrary to the rules of the House, he had;

- Failed to register monies received for the provision of consultancy services;
- Failed to deposit an agreement for the provision of services;

1 WE1 & 2

2 WE3

3 WE4

- Failed to declare a relevant interest when tabling five parliamentary questions, when tabling an early-day motion, when making approaches to other Members, and at a meeting of a prospective all-party parliamentary group;
- Tabled parliamentary questions and an early-day motion, and took steps to establish an all-party parliamentary group, at the request of paying clients

I also considered whether his conduct was such as to cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

Relevant Rules of the House

4) The Code of Conduct provides the following rules:

“10. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.”

“11. No Member shall act as a paid advocate in any proceeding of the House.”

“13. Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members’ Financial Interests. They shall always be open and frank in drawing attention to any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.”

“16. Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.”

5) The rules of the House in respect of registration are set out in Chapter 1 of the Guide to the Rules relating to the conduct of Members. Paragraph 66 provides that

“Under a Resolution of the House of 6 November 1995 the House agreed that Members should deposit certain agreements for the provision of services with the Parliamentary Commissioner for Standards.

Members should:

ensure that the agreement does not breach the ban on lobbying for reward or consideration;

put any such agreement in written form;

deposit a full copy of the agreement with the Commissioner. The agreement should indicate the nature of the services to be provided and specify the fees or benefits the Member is to receive in bands of (1) up to £5,000; (2) £5,001 to £10,000 (and thereafter in bands of £5,000);

make the appropriate entry in the Register; and

declare the interest when it is appropriate to do so”

6) The rules of the House in respect of declaration are set out in Chapter 2 of the Guide to the Rules relating to the conduct of Members. Paragraph 78 provides that

“Under the Resolution of 19 July 1995, Members are required to declare relevant interests on the Order Paper (or Notice Paper) when tabling any written notice initiating a parliamentary proceeding, ie:

(a) Questions (for oral or written answer, including Urgent Questions);

(b) Early Day Motions, Amendments to them, or any names added in support of such Motions or Amendments”.

7) The rules of the House in respect of lobbying for reward or consideration are set out in Chapter 3 of the Guide to the Rules relating to the conduct of Members. Paragraph 89 of the Guide sets out the relevant Resolution of the House as follows:

“On 6 November 1995 the House agreed to the following Resolution relating to lobbying for reward or consideration:

“It is inconsistent with the dignity of the House, with the duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter into any contractual agreement with an outside body, controlling or limiting the Member’s complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof: and that in particular no Members of the House shall, in consideration of any remuneration, fee, payment, or reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received is receiving or expects to receive—

(i) Advocate or initiate any cause or matter on behalf of any outside body or individual, or

(ii) urge any other Member of either House of Parliament, including Ministers, to do so,

by means of any speech, Question, Motion, introduction of a Bill or Amendment to a Motion or a Bill or any approach, whether oral or in writing, to Ministers or servants of the Crown.”

(Resolution of the House of 15 July 1947, amended on 6 November 1995 and on 14 May 2002).”

8) Paragraph 96 provides guidelines for the operation of the rule, which include the following:

“The Committee on Standards and Privileges has provided the following Guidelines to assist Members in applying the rule:

Parliamentary proceedings: *When a Member is taking part in any parliamentary proceeding or making any approach to a Minister or servant of the Crown, advocacy is prohibited which seeks to confer benefit exclusively upon a body (or individual) outside Parliament, from which the Member has received, is receiving, or expects to receive a financial benefit, or upon any registrable client of such a body (or individual). Otherwise a Member may speak freely on matters which relate to the affairs and interests of a body (or individual) from which he or she receives a financial benefit, provided the benefit is properly registered and declared.”*

Summary of Events

9) Until **1999** Mr Mercer served in the Army, where he had a distinguished career and first developed an interest in Fiji when he helped to recruit and train Fijian soldiers.

10) On **7 June 2001** Mr Mercer was elected to Parliament as the Member for Newark.

11) On **21 November 2002**, Mr Mercer asked the following question in the House:

“Fijian Soldiers

Patrick Mercer: To ask the Secretary of State for Defence what plans he has to make it easier for Fijian soldiers serving in British regiments to travel freely while on leave. [80698]”

12) On **14 November** and **17 December 2012** Mr Mercer had preliminary discussions with Paul Marsden (a consultant and former MP) about Australasia and the idea of a project involving Fiji was mooted. Mr Marsden noted that there was no all-party parliamentary group on Fiji.

13) On **6 March 2013** Mr Mercer received a phone call from Daniel Mann who invited him to consider undertaking consultancy work for Alistair Andrews Communications on behalf of the *Society of Friends of Fiji*. This telephone call was recorded without Mr Mercer’s knowledge, as were all subsequent telephone calls and meetings between the two men.

14) On **13 March** Mr Mercer met Daniel Mann. At this meeting Mr Mercer agreed to act as a consultant for *The Society of Friends of Fiji* and to set up an all-party group and table an early-day motion on Fiji. He proposed Paul Marsden, a former Member of Parliament, to be secretary for the group.

15) On **14 March** Mr Mercer called Daniel Mann and suggested his (Mr Mann’s) “employers” consider sponsoring a Fiji foundation, along the lines of an idea he had discussed earlier with Paul Marsden in relation to Georgia.

16) On **20 March**, at a second meeting, Mr Mercer again suggested establishing a “foundation” as “*an engine behind the APPG*”. He also signed a contract for consultancy⁴ with ‘Alistair Andrews Communications’, after striking out the words

“in order to raise awareness of the hardship caused by the suspension of Fiji from the Commonwealth of Nations with a review to securing its readmission”.

The commencement date was 20 March 2013, and the fee was set at £2,000 per month. The first payment was due on 15 April. The contract was not deposited or registered, as required by the rules.⁵

At this meeting, Daniel Mann also passed Mr Mercer a draft of an early day motion⁶ and asked if it could be submitted before recess. Mr Mercer agreed to do this.

17) On **25 March**, Mr Mercer inquired of the Registrar’s Office about establishing a new Associate Parliamentary Group, which his office confirmed related to Fiji.⁷

18) On **26 March**, Mr Mercer tabled early-day motion 1249 of Session 2012–13, on Fiji,⁸ urging its readmission to the Commonwealth.

19) On **2 April**, the Assistant Registrar emailed Mr Mercer’s parliamentary assistant with information on how to register a new all-party parliamentary group.⁹

20) On **15 April**, at a third meeting, Mr Mercer reported that he had submitted the forms to register the all-party group on Fiji. Mr Mercer agreed to arrange for a potential secretary proposed by Mr Mann to have a parliamentary pass. He also undertook to ask for a Westminster Hall or Adjournment debate on Fiji.

21) On **16 April** Mr Mercer’s bank account was credited with the first payment of £2,000 from Alistair Andrews Communications.

22) On **18 April**, there was a fourth meeting for part of which David TC Davies (the Member for Monmouth) was present. Mr Davies declined any offer of payment. After he left, Mr Mann handed Mr Mercer a draft parliamentary question, and Mr Mercer suggested that he or “TC” could submit half a dozen questions on the same subject.

23) On **25 April**, there was a fifth meeting, at which the potential secretary was introduced.

24) On **26 April**, Mr Mann called Mr Mercer and asked whether he had submitted the parliamentary questions. Mr Mercer said *“they will go in electronically this morning”*.¹⁰

25) On **29 April**, Mr Mercer, or someone using his login credentials, sent three FCO questions¹¹ to the Table Office; two were accepted and one “carded”—that is, rejected as being procedurally incorrect; the official tabling date was 8 May, when the House returned after Prorogation. The box on the submission form declaring a registered interest when tabling a question was not ticked for any of these questions.

5 WE44

6 WE17

7 WE44,p76,32

8 WE19

9 WE44,p76,33

10 WET12, p135,17

11 WE22, p27

- 26) On **30 April**, the inaugural meeting/AGM of the APPG on Fiji was held.
- 27) On **8 May**, Paul Marsden emailed a draft of twenty further parliamentary questions on Fiji and the wider area of Australasia to Mr Mercer's parliamentary assistant.¹²
- 28) On **13 May**, three further questions to the FCO¹³ were tabled under Mr Mercer's name. No interest was declared.
- 29) On **15 May**, Mr Mercer's bank account was credited with a second payment of £2,000 from Alistair Andrews Communications.
- 30) On **16 May**, the registration form for the APPG on Fiji was received by the Registrar's office, but it did not fulfil the required party balance. Further names were requested.¹⁴
- 31) On **16 and 20 May**, answers to five questions on Fiji tabled in Mr Mercer's name were published in Hansard.¹⁵
- 32) On **25 May**, Snapper TV emailed a letter¹⁶ to Mr Mercer giving details of the undercover operation carried out against him and describing a potential Panorama programme.
- 33) On **28 May**, Mr Mercer contacted the Registrar of Members' Financial Interests to register the first payment from AAC (received 16 April).¹⁷
- 34) On **31 May**, articles, based on the secretly recorded calls and meetings between Mr Mercer and Mr Mann, appeared in *The Daily Telegraph*.¹⁸
- 35) On **3 June**, Mr Mercer wrote to me to refer himself for investigation "*In view of recent allegations*".¹⁹ On this date, Mr Mercer's office also emailed the Registrar's office to cancel the registration of the APPG on Fiji.²⁰
- 36) On **11 June**, Mr Mercer contacted the Registrar again to register the second payment of £2,000 from Alistair Andrews Communications (received 15 May).²¹ The relevant entry appeared in the Register for 24 June.

Evidence

- 37) In the course of my inquiry I have considered evidence from the following:
- a) The BBC (including information from Snapper TV, and the *Daily Telegraph*)

12 WES, p54-55

13 WE22, p27

14 WE44, p76, 37-40

15 WE23 & 25

16 WES, p77-84

17 WE27, p36, 23-24

18 WE1 & 2

19 WE3

20 WE44, p76, 41

21 WE28, p38, 20 & WE26

- b) Mr Mercer
- c) Mr Paul Marsden, a former MP, and a friend and business associate of Mr Mercer's
- d) The Registrar of Members' Financial Interests
- e) Hansard and other official records of parliamentary proceedings

38) I approached the editors of both *Panorama* and the *Daily Telegraph* on 13 June to request the full and unedited footage, including unbroadcast footage and the transcripts of any conversations, which they provided. The reporter had meticulously collected large amounts of evidence in the course of his investigation and provided, in addition to transcripts of five interviews and a number of phone calls, photos of screen shots of his mobile relating to emails etc. This provided a very significant amount of material, all of which has been considered, shared with Mr Mercer and where necessary checked for accuracy against video recordings. On 10 December I agreed with Mr Mercer on the relevance of all the information provided and have not included evidence which was not essential to this memorandum. The transcripts of the five interviews and some telephone calls between Mr Mercer and Mr Mann are included in full, but the transcript of the *Panorama* programme itself is not. As the *Daily Telegraph* material is essentially a subset of the BBC material, I have included the initial articles in the written evidence²² but have not considered them under a separate heading.

39) Mr Mercer provided me on 11 July 2013 with a response to my initial inquiry letter.²³ This amounted to approximately 170 pages, including a number of statements from other individuals, plus a detailed commentary relating to the *Panorama* programme. I have considered all this material and at my meeting with him on 10 December 2013 we agreed that certain documents were not required as evidence for this memorandum and that others containing personal information should be redacted. Those pages have been withdrawn from the submission.

40) In addition to the above, the evidence includes all correspondence between Mr Mercer and myself and transcripts of two interviews with him and one with Mr Marsden, evidence from parliamentary records and an exchange of correspondence between myself and the Registrar.

41) I have placed no reliance on the *Panorama* programme itself nor on the relevant articles in the *Daily Telegraph*. I do not condone the method by which the evidence was gathered but have nevertheless addressed the issues raised.

Evidence from the BBC

42) The BBC provided copies of text messages and emails, and transcripts of meetings and phone calls between Mr Mercer and Daniel Mann, who Mr Mercer believed was the representative of a firm of lobbyists, 'Alistair Andrews Communications'. All the

22 WE1 & 2

23 WE14 & WES

transcripts were checked for accuracy against the audio/video both by my office and by Mr Mercer, who agreed that they were accurate.

43) On 6 March 2013 Mr Mercer was contacted by phone by Mr Mann.²⁴ He said that he was a political lobbyist, working for a communications company called Alistair Andrews Communications and asked if Mr Mercer was interested in paid consultancy work in connection with some clients called the *Society of Friends of Fiji*. In fact neither this organisation nor the consultancy exists. Mr Mercer was initially hesitant, asking whether Mr Mann was a journalist because “*this could be an absolutely classic piece of investigative journalism*”. However, Mr Mann denied that he was a journalist and Mr Mercer agreed to a meeting. Over the next two months he met Mr Mann on five occasions, four in an office and once in a Marriott Hotel. There were numerous phone calls between them, and Mr Mercer was accompanied by fellow Member Mr David T C Davies to part of his fourth meeting.

44) **The first meeting** took place on 13 March,²⁵ when Mr Mann made it clear that his clients were seeking to have an APPG set up to press the cause of Fiji and its readmission to the Commonwealth. Mr Mercer expressed some doubts about APPGs saying

*“They can be useless. Utterly. Frankly they can be a way of getting passes for people to get into Parliament ...Or they can really be quite helpful ... if we’re gonna have an APPG I’ve got to have a sponsor.”*²⁶

45) Mr Mercer expressed a twofold interest in Fiji, first because of its sugar industry which potentially conflicted with interests in his constituency, and secondly because of his longstanding interest in the problems of Fijian soldiers in the British Army, which dated from his own time in the service. He agreed to table an early-day motion:

“DM: What about early day motions, do you think there’s any merit in those?”

*PM: Yeah, yeah, yeah. We can put down an EDM. Yeah, course, of course.”*²⁷

He promised to start setting up an APPG, offered the help of Paul Marsden, and mentioned other ideas but also said

*“I cannot and will not clearly accept any remuneration for Parliamentary duties—that’s nothing to do with the consultancy.”*²⁸

There was no discussion of what else he might do as part of a consultancy.

46) In **the second meeting** on 20 March²⁹ APPGs were discussed again and Mr Mercer said

24 WET1

25 WET3

26 WET3, p7

27 WET3, p16

28 WET3, p19

29 WET6

*“An APPG is bollocks ... it’s a really good way to make clients think that something is being done. I would suggest that 7/8ths of APPGs are just that ... or you have to have a really sensible APPG ... and the only way you get that is by having a Secretariat.”*³⁰

He expressed concern that *Guido Fawkes*³¹ would be “*all over this*”³² trying to find out where the corruption is, mentioned a previous occasion on which he was referred to the Parliamentary Commissioner for Standards for allegedly “*selling a pass*” and went on to say

*“You know there’s ways of not putting this stuff in the Register of Members’ Interests...there are. You can do it if you want, if you’re prepared to take the risk ... How do we separate that from the eyes of the likes of Guido Fawkes from ... Alistair Andrews Communications?”*³³

47) On this occasion Mr Mann gave Mr Mercer two documents, one of which he signed immediately. This first document is described by Mr Mann as “*a very, very straightforward letter of agreement*”.³⁴ With regard to the other, which is a contract, Mr Mercer said, “*this document, however, does say the word ‘Fiji’ in it*”. In answer to a question from Mr Mann about needing to declare it he said

“I wouldn’t have to lodge it at all. But if they come to you and [make an FOI request?]”.

Mr Mann reassured him that this could not happen and Mr Mercer continues

*“well, look, let’s sign this with pleasure.. and I have to say thank you, it’s generous....does it say Fiji anywhere in this? May I strike it out And sign it or...?”*³⁵

The contract he signed was for £2,000 per month, the first payment to be made on or around 15 April 2013. The words which he struck out were;

*“in order to raise awareness of the hardship caused by the suspension of Fiji from the Commonwealth of Nations with a review to securing its readmission”.*³⁶

Mr Mann clarified

*“If you do things as a ...for the media or whatever, that’s still gonna be pertaining to Fiji isn’t it?”*³⁷

To which Mr Mercer replied,

30 WET6, p28–29

31 A political blogsite

32 WET6, p31

33 WET6,p32

34 WET6, p31

35 WET6, p33

36 WE18

37 WET6,p33

*“But you’re not gonna reward me for that. I should be rewarded for the advice that I give to yourselves and/or directly to the government of Fiji... about the way they raise their problems and difficulties in Parliament..... as far as the consultancy is concerned,...that happens outside of Parliamentary hours... and I leave my parliamentary coat hanging outside... but if I’m pressing the case for Fiji in the media then you are not rewarding me for that.”*³⁸

He later added

*“You’re paying me £2,000 a month, if you want me to talk about defence issues, security issues, policing issues outside Fiji... I’m your consultant.”*³⁹

Mr Mann did not follow this up.

This meeting finished with a discussion of a possible trip to Fiji, a possible APPG Foundation with Paul Marsden as a consultant, and an event in the summer.

48) At **the third meeting** on 15 April⁴⁰ Mr Mercer gave a progress report on the setting up of the APPG. He asked Mr Mann what sort of a group he would like (*“there’s the associate groups”*) and said it was no problem to do what Mr Mann wants. He said that he had asked for the return of a House of Commons pass

*“which we will take whoever you want, to be whatever appointment you want the person to be.”*⁴¹

49) Mr Mann suggested a woman who had been recommended to him as a secretary. They discussed the organisation of a trip to Fiji, and Mr Mercer suggested that Mr David T C Davies could be a good second consultant. He talked about the need for the APPG to be sustainable beyond the next election and said

“...in two years’ time there ain’t going to be any Conservatives back in power. If you asked me to lay odds on David Cameron leading us into the next election I would say they are no more than 50 50... these people will do anything to hold onto their salaries ... including completely compromising any form of political ideology.”

50) Towards the end of the meeting Mr Mann asked whether Mr Mercer had any further thoughts on a possible debate. Mr Mercer replied

*“No, um, no but I mean I will happily start applying for one. Happily.... It’ll be a Westminster Hall or an adjournment debate. I’ll put one in today. Yes.”*⁴²

Mr Mercer asked about plans for a visit from Mr Mann’s clients and what the organisation was called. He was told again that it was *The Society of Friends of Fiji*.

38 WET6, p33–34

39 WET6, p35

40 WET8

41 WET8, p49

42 WET8, p55

51) The **fourth meeting** took place on 18 April⁴³ and Mr Mercer was accompanied for the first part of the meeting by Mr David T C Davies, who expressed an interest in Fiji but admitted to knowing little about it. Mr Mann gave a summary of the history and there was some discussion of tourism and in particular surfing. Mr Mann explained that he had a list of things to follow up with Mr Mercer but said that the Society had asked him to employ two or three consultants to “*try to get the profile of their cause raised.*” Mr Davies said,

“I am more than happy to work with Patrick on that, I don’t want anything for it at the moment.”

He sought reassurance about human rights issues. Mr Mercer then said

“I know we’ve had this conversation before but can we just have this one again The, what you are asking me and TC and others to do is absolutely fine proper and right as long as we observe the rules However, do be clear that there are individuals out there who will look at this and are perfectly happy to paint this as a huge scam So you have taken me on to advise your firm on a number of different issues of which certainly Fiji is one but there are a number of different things which we will be talking about and it’s terribly important please that we continue to have that absolutely right and proper firebreak between saying oh well you know, I’ve caught myself a couple of members of parliament who will set up APPGS and do what we ask them because we won’t and it’s, it’s desperately important.”⁴⁴

52) Mr Mann replied that he understood this. He then made it clear that he wanted to speak to Mr Mercer alone and asked if Mr Davies had any further questions. Mr Davies confirmed that he was,

“very interested and going along with this in a way but to have a slightly more informal and less committed relationship...”⁴⁵

He then left and Mr Mercer immediately began to update Mr Mann on progress with setting up the APPG, including having recruited the required number of members and a Labour joint chair.

53) Mr Mercer asked when the Fijians would visit England and about dates for a visit to Fiji. Mr Mercer then gave Mr Mann some work done by Mr Marsden on what would be required to produce a report on a road map for Fiji’s readmission to the Commonwealth. This had previously been discussed on the telephone on 16 April.⁴⁶ Mr Mann asked

“And is Paul [Marsden] across what we also talked about i.e. in terms of the fact that we need this report obviously to have a helpful conclusion?”

43 WET9

44 WET9,p 67–68

45 WET9, p68

46 WE10

Mr Mercer replied “*Totally.*”⁴⁷ Mr Mercer talked again about the need for a paid secretariat and then about how to ensure that attention is paid to the conclusions of the report:

*“we will certainly get an FCO Minister. To give us an interview and we will sit down and say look you know here is, here is a properly formulated sensible and thought through report, we are very keen to see that the results are going to be from this.”*⁴⁸

54) Mr Mann asked about the appearance of the report “*we can make it look as official as possible can’t we...*” and was reassured that it would have the Portcullis and the title of the group on it. He then asked Mr Mercer to meet the potential secretary for the group and Mr Mercer stressed that it was essential to establish a foundation and that Paul Marsden should be in charge of it. They made an appointment for 25 April and Mr Mann then gave Mr Mercer some papers saying,

“I’ve been asked if we can possibly get this asked see what you think it’s very much along the same lines, a question but um...”

55) Mr Mercer responded

“We’re not going to put down another EDM but I think what I will do is I will start, I will put a handful of, of parliamentary, of PQs about it surrounding it so I will put half a dozen in, maybe even get TC to do it”.⁴⁹

They went on to discuss possible wording of the questions.

Mr Mann mentioned the payment for the work by saying

*“if you ever feel you are doing more than the requisite amount of work then just tell me and we can make an adjustment,...no, I mean because I am aware, I am passing on to you things that I am asked to do but if you feel well hold on this is now more than two days a month...just say and we will.”*⁵⁰

56) Mr Mercer did not respond but listed the names of the people who had agreed to join the APPG and passed comment on some of them. For example:

*“You’ve got some right bad boys there, you really have.... []’s a crook of the first order and you have to be careful because his name carries mixed reactions but I have never met an operator like him.... I mean it’s not always completely ethical but it’s stunning, he is an operator....”*⁵¹

*“[...] might be a bit tricky, but the others should be OK.”*⁵²

57) Mr Mercer then returned to his concerns about *Guido Fawkes*: “*the thing which about we are all frightened is Guido Fawkes*”. He referred again to the issue of the

47 WET9, p73

48 WET9, p75

49 WET9, p78

50 WET9, p80

51 WET9,p 81

52 WET9, p83

parliamentary pass, which was passed to the then Commissioner for Standards who did not investigate. He said that David Davies was worried about whether Mr Mann was “*on the straight*” and said that he himself had checked out Mr Mann and the firm because

*“...for all I know this is all being recorded and this is all going to appear in a Sunday newspaper.”*⁵³

He said that this was the reason for Mr Davies’ concern but that he would be reassured. He did not himself seek any reassurance from Mr Mann. They then returned to talking about Mr Marsden’s report plan, before the meeting concluded with Mr Mercer inviting Mr Mann to visit him in Skye.

58) The **fifth and last meeting** was held on 25 April⁵⁴ when Lynn, the prospective secretary, was present for the first part of the meeting. She spoke a little about her background and skills before Mr Mann asked about how a pass might be obtained for her. Mr Mercer said that it is not impossible to manage without one but easier to have one. He said that he had three passes for staff and would recall one. He had thought, mistakenly, that the APPG carried a pass automatically, and he had not yet been able to get in touch with the person from whom he wanted to recall one. He said to Lynn

*“...we can sign you in and out and...I don’t see the majority of your time actually being physically in the Palace of Westminster...”*⁵⁵

He explained the process for getting a pass and said

*“As soon as I can get hold of the ... man, so I would have thought within a fortnight.”*⁵⁶

59) There was some discussion of the difficulty in finding out the ways in which Parliament works and the process of Private Members’ Bills and Lynn then left for another appointment. Mr Mercer then said that he had some things to mention, that the first meeting of the APPG was expected to be held in the next week but might be delayed by the prorogation. He was able to name three of the officers who would be appointed. He then said that TC (Mr Davies) was a problem because he had emailed after the previous meeting to say that he wanted no more to do with it. However, a replacement had been found. Mr Mercer said that although it is not an official APPG until they have the full complement

*“the work starts as and when you give us directions or you’re I beg your pardon, when I give directions to the APPG according to my, my conversations with you, I mean, I, frankly, whatever you say, we’re going to do that inquiry....”*⁵⁷

He returned to the subject of Mr Davies saying

53 WET9,p 85

54 WET11

55 WET11, 97

56 WET11, p99

57 WET11, p113

*“TC doesn’t like the look of you...and I have to say that one or two of the things do raise some question marks with me, which I’ve got to ask you about.”*⁵⁸

60) Mr Mercer said that he had been unable to find out anything about Mr Mann, who offered to give him a CV. Mr Mercer continued

*“TC...said I don’t believe this firm exists, er, there’s nothing on the website...”*⁵⁹

Mr Mann suggested that this is the nature of the industry. Mr Mercer asked who else had been approached and Mr Mann did not tell him. Mr Mercer said Mr Davies had said

*“...can’t you see what’s going on Patrick.... I’m sorry I’m not having anything to do with it,”*⁶⁰

Mr Mercer was apparently reassured by the offer of the CV and they went on to talk about Mr Marsden’s estimate of costs for the Foundation, which was higher than Mr Mann had expected (approximately £100,000 in the first year). They discussed timing and whether or not the conclusion would be helpful to the client. Mr Mercer said that he cannot promise a certain outcome, and the independence of the APPG is crucial to its credibility, although he personally is certain that Fiji would be better off inside the Commonwealth. He said

*“I would be very surprised if we don’t find a, a pretty benign picture of what’s going on”.*⁶¹

61) Mr Mercer praised Mr Marsden’s qualities as an organiser. Mr Mann asked about progress on the parliamentary questions and the content in them, and the meeting drew to a close with a discussion of a recent trip by Mr Mercer to Israel. Mr Mercer talked about an incident with a female soldier which had occurred on a previous visit:

*“an 18-year-old girl wearing uniform, but with her sort of hair in plaits and, and crazy jewellery and, and open-toed sandals, with a rifle up my nose. er, Who the fuck are you?, You know? “Well I’m a soldier.” Are you, you don’t look like a soldier to me, you look like a bloody Jew, but er, I’ve no, no doubt if I’d come up with the wrong answer I’d have had my head blown off...”*⁶²

Evidence from Mr Mercer

62) On 11 July 2013 Mr Mercer wrote a letter⁶³ to me in which he said,

“Attached are my attempts to answer the questions that you have raised ... I take responsibility for the late declaration of payment and the errors of declaration of interest on Parliamentary Questions and an EDM. Along with that responsibility comes my full apology.”

58 WET11, p114

59 WET11, p115

60 WET11, p119

61 WE11, p125–6

62 WET11,p132–133

63 WE14

Attached to the letter was a 167-page submission dated 10 July 2013, detailing Mr Mercer's responses to the other allegations under inquiry.⁶⁴

Submission dated 10 July

63) Mr Mercer presents his own case in this submission. In the introduction, he stresses his willingness to co-operate with my inquiry, and this has been borne out by our subsequent interactions. I am grateful to him for this. He then says:

"It is also very important to make clear from the outset that I have acted in good faith to my conscience as a Member of Parliament and in the best interests of my constituents and specifically given the allegations, the people of Fiji. As someone who has taken an interest in the welfare of Fijians dating back to 2000, I have a long track record of supporting a better quality of life for their soldiers who have a distinguished record in the British Army.

*At no stage, have I undertaken "paid advocacy" nor carried out the whims and demands of a client. I have acted in accordance with the seven principles of conduct for Members of Parliament."*⁶⁵

64) Mr Mercer describes the background to his interest in Fiji, going back as far as 1998. He also describes how he pursued this interest in collaboration with Mr Paul Marsden from late 2012 onwards. In relation to the setting up of an all-party group and a foundation, he says

*"The key point is that we had undertaken a serious amount of research, planning and preparation well before AAC arrived on the scene."*⁶⁶

65) There is a section on "personal issues", detailing some difficult family circumstances which Mr Mercer says may have led to some inattention and "management oversight" on his part. I have redacted much of this information, but in this section he also deals with the late registration of the payments from Alistair Andrews Communications:

*"We genuinely believed that all declarations and registrations had been made and it wasn't until I received the letter on 28th May from Snapper TV that after investigation, we realised that [we] had not registered the payment of the first two thousand pounds received on 15th April. I immediately registered both the payment of two thousand pounds on 15th April and two thousand pounds on 15th May 2013. However, I must point out that I reconcile the bank statements most months and I was due to reconcile the statements at the end of May. I am confident I would have seen the payments and I would therefore have checked that the declarations had been made by 31st May, if there had been no media story."*⁶⁷

64 WES

65 WES, p4

66 WES, p10

67 WES, p11

66) Mr Mercer gives a timeline beginning with “*an unsolicited telephone call on my private mobile phone*” from Mr Mann, on 6 March 2013. Mr Mercer says he had suspicions but these were easily allayed, for example by a simple denial:

*“I challenged Mr Mann and asked if he was a journalist and he untruthfully said ‘No’. I asked him again if he was an investigative journalist and again he said ‘No’.”*⁶⁸

67) Mr Mercer gives an account of the five meetings he had with Mr Mann. These are described above and the full transcripts are attached. He includes a copy of the contract he signed with Alistair Andrews Communications on 20 March 2013, an account of plans to celebrate the heroism of a Fijian soldier in 1972, and the minutes of the inaugural meeting/AGM of the all-party group on 30 April 2013. He also describes the plans he discussed with Mr Mann for setting up the all-party group and foundation, and the preparations for a report to be co-ordinated by Mr Marsden. He says

*“The [Panorama] programme does not show me robustly explaining to Mr Mann that the report could not be a ‘whitewash’ and would only be useful if it was fair and balanced.”*⁶⁹

68) The timeline includes minutes of the inaugural meeting/AGM of the APPG on Fiji held on 30 April 2013. The notes to these minutes include the following declaration:

*“Mr Mercer wants to make clear that he has an interest in Fiji. This will be displayed on the proposed website of the Group.”*⁷⁰

69) Mr Mercer then describes the revelation that he had been “stung”. He was on the Isle of Skye, for family reasons, when he was informed of this on 28 May. After this, he says,

“On 1st June 2013, the Telegraph ran with their story without waiting for a response from me. By then, there was little point trying to respond to Snapper TV and BBC Panorama as it was apparent that they had decided on the editorial line and I would not under any circumstances receive a fair hearing.

*On 6th June 2013, BBC Panorama broadcast their biased, partial and incomplete programme without waiting for a full response from me. Given it has taken around 45 hours’ working full time to put together this submission carefully to check dates and facts at a hugely stressful time, the media had no intention of allowing me the opportunity to respond properly.”*⁷¹

70) There is then a critical account of the content of the Panorama programme, followed by a “Summary of Response”. As my inquiry is based not on the programme but on the source material behind it, I have not set this out here.

Appendices

68 WES, p12

69 WES, p20

70 WES, p 30

71 WES, p34–35

71) Appendix 1 to the submission is a brief CV, with a photograph of Mr Mercer. This has been redacted.

Appendix 2 is a list of references indicating where the allegations and questions contained in my letter of 13 June and its own appendices are addressed within the submission. This has been omitted from the evidence.

Appendix 3 is the detailed statement from Mr Marsden, described below.⁷²

Appendix 4 is the Commonwealth Ministerial Action Group statement on Fiji dated 28 September 2012, supporting Fiji's reinstatement as a member of the Commonwealth. This has been redacted.

Appendix 5 is Mr Marsden's briefing dated 17 February 2013—ie before the involvement of AAC or Mr Mann—detailing plans for setting up the all-party group on Fiji and a UK-Fiji foundation. This has been removed from the evidence.

Appendix 6 is a personal statement by Mr Mercer's wife, detailing some difficult family circumstances and this has been redacted.

Appendix 7 is a personal statement by Mr Mercer's parliamentary assistant, which is not directly relevant and has been removed from the evidence.

Appendix 8 is a briefing by Mr Marsden on the setting up of the all-party group, and containing some detailed background information on Fiji and its recent history, dated 7 March 2013—ie prepared just at the time that Mr Mann was starting to take an interest.⁷³

Appendix 9 is a memo from Mr Mercer to AAC entitled '*APPG on Fiji and UK-Fiji Foundation*' and dated 16 March 2013. It contains background information and makes the case for having both a group and a foundation led by an experienced "*political operator*" who "*must be someone that I implicitly trust*". This is clearly a reference to Mr Marsden.⁷⁴

Appendix 10 is entitled "Paul Marsden's briefing on the inquiry report sent to AAC dated 15 April 2013".⁷⁵ It proposes the report title, "and states that the inquiry must take a "robust approach", without "presumptions or prejudging".

Appendix 11 contains correspondence between Mr Mercer, or his legal representatives, and Snapper TV and the *Daily Telegraph*.⁷⁶ A long letter from Snapper TV dated 25 May 2013 sets out a series of allegations against Mr Mercer to be aired in "*The documentary we are now producing*" is included but further exchanges have been removed.

Appendix 12 is a detailed analysis by Mr Mercer of the *Panorama* programme. My inquiry is based not on the programme but on the source information, and I have agreed with Mr Mercer that this should be excluded from the evidence.

72 WES, p40–65

73 WES,p 66–71

74 WES, p72–73

75 WES, p74–76

76 WES p77–92

Interview 10 December 2013

72) I interviewed Mr Mercer on 10 December 2013.⁷⁷ I asked him first for his general impression of events since the appearance of the newspaper articles and television programme in late May/early June. He spoke of his initial reaction as “*the shock of capture*” and said

*“this is a very serious assault that has taken place on me, with a clear judge, jury and executioner forming up in the hands of the media”*⁷⁸

73) He went on to say that, on reflection, he thought

*“Why...is the underpinning issue of my intense concern for particularly Fijian and Commonwealth soldiers serving in the British Army—this was going to be the most marvellous vehicle for me to use—why has none of that been reflected? Where I rigorously stand up for my constituency, how is that being contorted to make it look as if I am selling Newark down the stream? Why were none of the statements that I would not be bought, that I was not available as some sort of tradesman for them, not produced?”*⁷⁹

74) I asked Mr Mercer why he had not checked carefully as to the *bona fides* of the organisation for which he was signing up as a consultant. He spoke about voicing his suspicions, and about Mr Mann continually stalling on introducing him to the end clients, but concluded “*the answer is I am extremely naïve*”.⁸⁰ He also spoke about his difficult family circumstances which had preoccupied him and the fact that they were still ongoing.

75) I asked Mr Mercer why, if his family circumstances were his priority, he had been so responsive on every occasion to Mr Mann rather than giving his time to other matters. He said

*“If you were to ask my staff, it is almost a mania with me to respond to messages and to react responsibly, because people don’t. People do not answer messages; people do not return telephone calls. In fact—this will come back to something I will mention later on—I cannot find this, but at some stage Foggo/Mann/Smith/Jones, whatever he was calling himself, did say to me, ‘Gosh, you are awfully good at answering messages.’”*⁸¹

76) We talked about Mr Marsden’s suggestion that Mr Mann might have targeted Mr Mercer and his interest in Fiji because one of their phones was tapped. Mr Mercer was somewhat sceptical, and said this was more Mr Marsden’s idea than his. He concluded “*I prefer to think that this was coincidence.*”⁸²

77 WE39

78 WE39, p53, 16 & 34–35

79 WE39, p53, 38–43

80 WE39, p55, 11

81 WE39, p 55, 31–35

82 WE39, p56, 29

77) Mr Mercer told me the history of his involvement with and admiration for Mr Marsden. He said

*“he is a details man, and I am not. He’s a cracking—again, the military analogy—he is a cracking staff officer”*⁸³

and detailed how they had come to focus on Fiji in particular:

*“you mention something to Paul and five pages turn up the next day. He was then saying—and I know exactly how it came up, because we got on to the subject of my resigning my shadow ministerial post. I then started talking about the difficulties with Fijian troops, and he said, ‘Well, you know, this is a country that we ought to look at.’ And I said, ‘Yes, that would be helpful.’”*⁸⁴

78) I asked Mr Mercer about the extent to which he was motivated by the desire to find work for Mr Marsden. He spoke of this coinciding with his own interest in Fijian soldiers:

*“Yeah, there’s no doubt about that. Paul needs a job; this struck me as being something that he would be extremely good at. I thought that this was a good and proper cause and it interested me.”*⁸⁵

79) When I asked Mr Mercer about the fact that he had struck the reference to Fiji out of the contract he signed with ACA, we had the following exchange:

“There are a series of comments by me saying that the—I can’t quote them, but I will if you want me to—saying, “The work that I do with the all-party parliamentary group and the work associated with it is nothing to do with the consultancy which you are asking me to carry out, which I see being involved in defence, security, policing matters, etc.” When the contract was given to me—it was quite clear that I should have taken the contract away and looked at it more carefully, but it was clear that this was confused. I was not going to include any of the direct Fijian—”

KH—But Daniel Mann didn’t ever ask you to undertake any security work.

PM—No, he didn’t, but I was expecting him to.

KH—Right, but he doesn’t discuss security work with you even as you set up the contract in the first place.

PM—Erm, well I did make it clear to him that I was expecting to—

KH—You talk about it; he doesn’t.

PM—Yes.

83 WE39, p57, 18–19

84 WE39, p57, 36–39

85 WE39, p58, 14–15

KH—I need to go back to it. So I was just wondering how you had got the impression that the work you were doing—that you were going to be paid for doing and which there was a contract for—was going to be security work when what he talks about all the time is the work that he wants done in Fiji, and not only that, it is things like, “Could you get an early-day motion? Can you put some questions?” You know. How did you square that?

PM—I squared that simply by the fact that I was quite clear that I had said to him that everything we did—everything we did—had got to be completely proper.”⁸⁶

He went on to expand on this in the following terms:

“The reason I expunged the Fijian stuff from the contract was precisely for that reason, because I did not see myself receiving remuneration for the parliamentary work that I was doing.

KH—Despite the fact that he had not actually asked you to do anything else other than the work on Fiji.

PM—No, but I was expecting him to do that. I did say to him that this must lead on to that. I may be contorting or confusing things here, but I got the impression that we would discuss those other activities with the Fijian representatives whom we were going to meet next week, the week after, the week after, the week after.”⁸⁷

80) We talked about the idea of a Fiji foundation, which Mr Marsden had suggested would need funding of about £100,000 a year:

“PM—Well, what I was hoping was that the clients would be in a position to fund the foundation, which would allow us therefore to produce a report which would clarify the position in terms of Fiji with the Commonwealth, and then move on to other reports, which hopefully we would be in a position to get Fiji going on this so-called road map, if that was the conclusion we reached, and then we could start looking at things such as Fijian troops, the erection of the statue, etc. etc.

KH—I see. So that might be further down the line.

PM—Yes, it could be. Yes.

KH—But in the meantime, they were paying you £2,000 a month.

PM—I have to say I was not aware of that. I was not aware of that because I failed to check my bank account.”⁸⁸

86 WE39, p59, 9–27

87 WE39, p60, 3–9

88 WE39, p61, 10–18

81) I asked about the fact that Mr Mercer appeared to have tabled questions at the behest of Mr Mann:

“KH—...One of the things Daniel Mann appears to do is to check up on your progress on some of this, and in particular there are some e-mails saying, ‘Have you submitted the questions?’ and you say, ‘Yes, they’ve gone in,’ and then later he says, ‘I can only see two of them,’ and one of them has been sent back because there’s something wrong with it, and he says, ‘I need to tell my clients about this,’ and it looks as though you are reporting back to him on things that have been done for the benefit of his clients. You might at some time want to get those e-mails out and have a look at them.”

PM—Hm. Yes, no, I am very familiar with what you are saying, and I can quite see that that is how it looks. I can’t answer that adequately, other than to say that these were questions that I wanted to have answered.”⁸⁹

82) Mr Mercer told me he had never had any intention of issuing a parliamentary pass to an associate of Mr Mann’s. When I said that he gave the impression that he was about to do this, he said:

“Daniel Mann was an extremely pushy, importuning individual. He’s the sort of man in the Army to whom you would say, ‘Look, clear off, you can’t speak to people like that.’”⁹⁰

Mr Mercer then described how he had told Mr Mann that he could not have the pre-decided report he seemed to be demanding.

83) We talked about the setting up of the all-party group and Mr Mercer’s disparaging comments about some of the potential members. He said *“You would need to show me the words,”* and I said we would return to that in our second meeting.

Interview 25 February 2014

84) I explained to Mr Mercer that this interview was to be principally about the setting up of the APPG and the question of whether he had brought the House into disrepute.⁹¹ I asked him why he had made comments about other Members being *“right bad boys”* and described one as *“a crook of the first order”*.⁹² He said that some of the Members he had approached first had not been available, that the context was important, and that he had used *“bad boys”* in the sense that his son might have used the word *“wicked”*, and not as an insult. He also said

“I’m really not being pejorative, but a lot of those people that I picked were never going to be hard driving. They weren’t going to be bad boys at all; there weren’t going to be wicked; one or two of them are going to be wicked.”

89 WE39, p62, 19–26

90 WE39, p63, 1–3

91 WE42

92 W42,p 66, 36-37

We went on to have the following exchange:

KH—.... So what you are saying to me is that the expression “right bad boys” is an expression that you would use; doesn’t necessarily mean what it might be interpreted as meaning?

PM—Indeed. And the same with the expression you are going to come on to next. It’s exactly the same.

KH—”a crook of the first order”?

PM—Yes. And I have qualified that later on in my statements by saying this is a man who is extremely well connected—

KH—Yes?

PM—and who will be able to work with us very effectively with all sorts of minority groups.

KH—And who is not always ethical?

PM—I don’t think those were the words I used, were they?

KH—I’d have to look up the quote exactly—or, doesn’t always behave in an ethical way?⁹³

PM—That was not my implication.

KH—Right. I need to look up the exact quotation of that, but there are more comments than just the ones I put down here. It just leaves the overall impression that maybe there’s a large number of Members of the House who aren’t particularly savoury characters. Is that an unfair interpretation?

PM—That is not my—that is not what I was trying to suggest. It really wasn’t.⁹⁴

85) Mr Mercer then explained how he was trying to form a relationship with Mr Mann, who was “*extremely cold, there was no warmth of character*”,⁹⁵ in order to pursue his agenda in relation to Fijian soldiers who serve with the British Army but are unjustly denied citizenship. I then said:

“KH—Nevertheless, it’s not where you manage to get to with Mr Mann—

PM—By no means.

KH—and it is not the focus of these discussions.

93 The actual quotation is “it’s not always completely ethical but it’s stunning, he is an operator” (WET9, p81)

94 WE42, p68, 4-6 & 10-25

95 WE42, p68, 28

*PM—No.*⁹⁶

86) Mr Mercer also conceded that his interpretation of his words about other Members might not be shared by everyone. I said

“Of course, people externally who don’t know you are likely to place perhaps a different interpretation on what you’ve said.

PM—I accept that.”

87) My final question on Mr Mercer’s derogatory comments about other Members was:

“So if I said to you, making those comments might undermine the integrity of the House and of the individual Members, what would be your response to that?

*PM—I can understand that interpretation. I can understand the interpretation of everything that has been levelled against me by Mr Mann, or whatever name he chooses to use, and I very much regret it, and of course it was stupid.”*⁹⁷

88) I then asked Mr Mercer about the anecdote he told in his meeting with Mr Mann on 25 April, when he reported himself as having said, “... you don’t look like a soldier to me, you look like a bloody Jew.”⁹⁸

Mr Mercer explained that he had just got back from Israel, very tired, and was recounting what had happened to him on a previous trip there. He pointed out that other conversations, such as one about the Isle of Skye, had not made it into the transcript. Mr Mercer was correct, in that a small part of the conversation at the end of the fourth meeting on 25 April is summarised rather than transcribed verbatim, and this included his invitation to Mr Mann to visit him on Skye.

89) Mr Mercer then said

*“Yes, I invite him to come out—anyway. If I’d said something rude about Scotsmen, even not deliberately rude about Scotsmen, I have no doubt that that would have been broadcast—you know, as ‘Patrick Mercer the Scots hater’.”*⁹⁹

I explained that that is why, in the interests of fairness and balance, he would have a chance to comment on the evidence, and why I was not intending to use the Panorama programme as evidence.

90) On his remark about the Jewish soldier, Mr Mercer said:

“It’s a stupid thing to say.

KH—And I understand that you have apologised?

96 WE42, p70, 1-3

97 WE42, p70, 15-17 & 23-27

98 WET11, p133

99 WE42, p71, 30-32

*PM—I have apologised fulsomely. I am married to a woman of Jewish extraction. I have lots of friends in the Jewish community, and—yes, I can prostrate myself no further, it’s just a stupid thing to say, and I didn’t even—I accept I said it, and I am conscious that my speech isn’t always as balanced as it should be.*¹⁰⁰

The meeting concluded with a brief discussion of timescales for the production of the draft report and the opportunity Mr Mercer would have to ensure that it was factually correct and fair before it was finalised.

Evidence of Mr Paul Marsden

91) The evidence bundle submitted by Mr Mercer included a statement from Mr Marsden at appendix 3, and further material from him at appendices 4, 5 and 10.¹⁰¹ The statement explains that he is a Business and Public Affairs Consultant, having formerly been a Member (1997–2005) and a Shadow Minister.

Statement

92) Mr Marsden’s statement sets out discussions with Mr Mercer from November 2012 onwards about possible projects which might help to promote the latter’s interests. Australasia was one such area and Mr Marsden mentioned the call for Fiji to return to the Commonwealth. Mr Mercer was interested and said that he would join the APPG on Fiji (which however, did not exist) and mentioned his support for Fijian soldiers. Mr Marsden later made notes about possible projects related to poverty in Fiji, the Solomon Islands, Tonga and Papua New Guinea. In December they discussed setting up an APPG on Fiji. Mr Marsden reminded Mr Mercer about Fiji again in February 2014 and drafted a proposal to create a UK-Fiji Foundation and an APPG.

93) On 7 March Mr Mercer was approached by Daniel Mann concerning Fiji and he and Mr Marsden assumed this was a coincidence. Mr Marsden spent over 40 hours working on a budget, programme and activities to “*get the project off the ground*”. He said afterwards that he felt “*very aggrieved that journalists have wasted our time.*” Mr Marsden was hoping to gain work as the organiser of the secretariat or Foundation associated with the APPG and was told by Mr Mercer on 16 March that AAC wanted to run the secretariat themselves. He says

*“the way they were acting was becoming difficult to say the least. Demanding to run the APPG/Foundation would mean we had no control over what they were doing and what standards they would adhere to. My concern was that they would undertake dubious activities without our knowledge...”*¹⁰²

He worked on a further briefing about the need to confirm to the letter and spirit of the rules and suggested aims for the APPG and an inquiry

100 WE42, p72, 7-11

101 WES, p40-63 & p77-79

102 WES, p48

“To investigate the circumstances and road map for Fiji to re-enter the Commonwealth of Nations as a political democracy.”¹⁰³

94) In April Mr Marsden produced a list of witnesses for the inquiry but by the middle of that month he and Mr Mercer were concerned that

“[AAC] were aggressive and pushing very hard for a preconceived outcome...I undertook background checks into AAC and reported back to Patrick that they were ‘suspicious’ but that the reason could be to maintain a high level of confidentiality.”¹⁰⁴

95) At Daniel Mann’s request on 23 April Mr Marsden produced a programme and budget for the APPG which Mr Mann did not progress. At that stage Mr Mercer and Mr Marsden agreed that the latter would start to look at other options in Australasia and he identified other lines of inquiry and ideas for sponsorship for a project. He also drafted a large number of parliamentary questions across a range of areas.¹⁰⁵ He prepared a letter to sponsors which he sent to Mr Mercer saying it

“...should make Daniel/clients think hard about continued dithering given if sponsorship comes in, you could proceed without them.”¹⁰⁶

96) On 28 May Mr Mercer told Mr Marsden that the AAC organisation was bogus, they had made a series of untrue allegations and were trying to pressurise him to admit wrongdoing.

“[DM] had tried to induce Patrick to break parliamentary rules and Patrick had stuck to his guns and refused to play along.”¹⁰⁷

Interview

97) I interviewed Mr Marsden on 12 November 2013,¹⁰⁸ when he confirmed much of what he had said in his statement and provided evidence for example of contemporaneous notes about Fiji. He explained that he had done a considerable amount of work on Fiji because he had hoped it would turn into some paid consultancy for him, but also that he had a number of templates which he was easily able to adapt to fit the situation required. In summary, he had hoped that Mr Mercer would help him to become the Chief Executive of the Foundation which they would persuade AAC to set up though Mr Mann. He did not himself meet Mr Mann and relied on Mr Mercer’s summaries of meetings and other events.

98) Mr Marsden’s evidence suggests he was more concerned with setting up a Foundation than with any particular desire to do something in the interests of Fiji. In interview I asked:

103 WES, p49

104 WES, p50 & p51

105 WES, p54-55

106 WES, p57

107 WES, p62

108 WE33

“KH—And at one point, I think, a discussion of, ‘Well, don’t make it Fiji then. What about doing East Timor, or something like that, instead?’ How did that come about if there was a commitment to Fiji?”

P—Because at that stage, when the suspicions were starting to come to a head, that’s when I threw it back into the conversation with Patrick. And I said something about, ‘Well look, we started off with Australasia. Maybe we look at the foundation, or we look at a way of doing this which incorporates Fiji but looks at other areas, because obviously it is such a small country. With all due respect, it is a very specialist field, and if you are trying to get sponsorship, if you only talk about one very small country, it does make certain special pleading to persuade, to get people to support or financially assist, or whatever. If it was a wider regional area, then vaguely, I was thinking, we might get more interest. That doesn’t exclude Fiji by any means, but it just means that we have got a little bit more latitude as to how we could do this.’

P—It’s one of those things. It was a fluid situation. I mean, we were exploring different ways of being able to get this thing off the ground, you know, but—How it would have ended up, I genuinely don’t know.”¹⁰⁹

99) With regard to the writing of parliamentary questions he told me:

“P—Well, what—what you have to remember Commissioner, is this: it’s that there’s one thing what Patrick is saying to them, what maybe they want to hear, because we’re assuming they’re a genuine business client, and what we were privately agreed upon. Now, the fact was was that days before any of those questions that were tabled that either they had helped or they had drafted, I’d already drafted a whole stack of them anyway, because I wanted to go on public record and I’d said to Patrick, “We need to be able to get on the public record about ‘what is the Government’s position over the Commonwealth?’” Now, that was one of the questions, I believe, that they then had a hand in drafting, but we were totally relaxed about that, in the same way with the Early Day Motion—”¹¹⁰

Evidence from Parliamentary records

100) Extracts from Written Answers of 16 and 20 May 2013 and a copy of early-day motion 1249 of Session 2012–13 are attached.¹¹¹ There are five questions about Fiji and its place in the Commonwealth, tabled by Mr Mercer and answered by Mr Hugo Swire, Minister of State at the Foreign and Commonwealth Office. According to Mr Marsden, these questions were drafted by him on 8 May. Mr Mercer says that the EDM was drafted by Daniel Mann and subsequently edited by Mr Mercer, who submitted it to the Table Office on 26 March 2013. No relevant interest was declared in tabling the motion

109 WE33, p45, 29–41

110 WE33, p47, 18–25

111 WE23 & WE25

(an interest is declared by the Member placing an ‘R’ after their name on the EDM submission form).¹¹²

Mr Mercer’s entry in the Members’ Register.

101) The entries for Mr Mercer current on 10 and 24 June 2013 are attached. The first shows registration of the £2,000 received from Alistair Andrews Communications on 15 April, with a registration date of 28 May 2013,¹¹³ and the second shows the further £2,000 received on 15 May, with a registration date of 11 June 2013.¹¹⁴ This shows that the second payment was registered on time but the first registration was two weeks late.

Evidence from the Registrar

102) On 3 March 2014 I wrote to the Registrar for Members’ Interests asking for her advice in connection with my inquiry.¹¹⁵ She responded on 10 March.¹¹⁶ In summary her letter indicates that;

- She had not previously seen the agreement signed by Mr Mercer but that she would have advised him to register it and that he was right to strike out the clause relating to Fiji, which implied that he would be paid to undertake advocacy.
- She had previously advised Mr Mercer in general terms about the registration of employment, the need to deposit agreements and the requirement to register all payments, including the name and address of the employer
- Mr Mercer was in the habit of making regular Register entries in respect of payments for outside employment and did this by means of an email sent from his office each month to which was attached a sheet giving the necessary details under each of four headings.
- On 28 May Mr Mercer’s office had emailed a “receipt for April 2013” which had not been included with the April payments notified on 17 May, in relation to Alistair Andrews communications. The Registrar asked for further information on that day and again on 11 June, when Mr Mercer sent further details.
- On 14 June a draft updated Register entry was sent to Mr Mercer for checking, which included the second payment, notified on 11 June. Mr Mercer queried this saying he thought he had registered both payments on 28 May. The attachment to the 28 May email did not say there were two payments.
- Mr Mercer’s office had enquired about establishing an APPG on Fiji on 25 March and a registration form was sent to him. When the completed form was returned on 16 May the names listed for the 20 qualifying Members did not

112 WE19

113 WE27, p36, 23–24

114 WE28, p38, 20

115 WE43

116 WE44

provide the required party balance and he was asked to provide the names of three more Opposition members. On 3 June his office emailed to say that Mr Mercer wished the cancel the registration.

Statement of Facts

103) The summary set out in paragraphs 8–35 in order to provide a clear framework of the events surrounding this inquiry also provides a statement of the facts of this matter. I wrote to Mr Mercer on 18 March¹¹⁷ ending a copy of the factual parts of the report and inviting any comments he wished to make on factual accuracy. His office responded on 26 March¹¹⁸ to say that he had no comments to make.

Analysis

104) The questions that I put to Mr Mercer in my letter of 3 June 2013¹¹⁹ were:

- a) Whether he failed to register monies received for the provision of consultancy services;
- b) Whether he failed to deposit an agreement for the provision of services;
- c) Whether he failed to declare a relevant interest when (i) tabling five parliamentary questions, (ii) when tabling an early-day motion, (iii) when making approaches to other Members, and (iv) at a meeting of a prospective all-party parliamentary group;
- d) Whether he tabled parliamentary questions and an early-day motion, and took steps to establish an all-party parliamentary group, at the request of paying clients;
- e) Whether his conduct was such as to cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

I have reversed the order of c) and d) above from that in my original letter, to assist the analysis.

I will consider each of these in turn.

- a) Whether Mr Mercer failed to register monies received for the provision of consultancy services;

105) As noted at paragraph 61 above, Mr Mercer admitted to a breach of the rules in failing to register the first payment made to him on 15 April 2013 within the 28 day period required by the rules. He registered that payment on 28 May, two working days after he was informed of the potential *Panorama* programme. He said:

“I accept that the first payment from Alistair Andrews Communications was not declared on time but was in fact declared after 6 weeks rather than the

117 WE45

118 WE46

119 WE7

*maximum 4 weeks, permitted by the rules. For that, I apologise unreservedly.*¹²⁰

106) The second payment, received on 15 May 2013, is registered on 11 June, and is therefore not late. Thus he did not fail to register either payment entirely, though I do not know how far the knowledge of the impending Panorama programme influenced his actions. Mr Mercer has also explained that personal and family issues were preoccupying him at that time and that he would have discovered his oversight when he checked his bank statement at the end of May and rectified the matter then. The Registrar's letter makes it clear that Mr Mercer had previously been very regular in his registration of interests, which he submitted in a specific monthly format. She notes that he did register other interests in May but not this one. This evidence might lead to a view that he did not intend to register the payments from Alistair Andrews Communications but there is no clear evidence on this point. Under category 3 in the rules of registration Members are required to give the names and addresses of third party clients; Mr Mercer did not do this.

107) Mr Mercer does not deny that the two payments of £2,000 that he received from 'Alistair Andrews Communications' were for 'consultancy services'. He suggests that he may not have read the contract he signed carefully enough and was not expecting to be paid until he started to work on security-related matters rather than for the work which he undertook within the House on Fiji. I will return to this question more substantively at point d).

b) Whether he failed to deposit an agreement for the provision of services

108) Concerning the failure to deposit such an agreement—namely the contract he signed with Alistair Andrews Communications on 20 March 2013, which was an agreement within the meaning of the relevant rules—Mr Mercer said in his submission of 10 July:

*"The consultancy agreement with 'Alistair Andrews Communications' was not submitted on time for similar reasons to do with my personal circumstances. When your inquiry commenced I felt it best to wait and include a copy of the contract in my submission rather than submit information and evidence in a piecemeal fashion."*¹²¹

At interview, we also had the following exchange:

"KH—... I am just surprised that, having signed a contract that says you are going to be paid £2,000 a month from then on, you weren't aware you were going to be getting some money.

PM—No. I can give no better explanation than that.

120 WES, p 36

121 WES, p36

KH—Right. And you have also said that you did not give a copy of that contract to the Registrar.

*PM—Yes, which was quite wrong.*¹²²

Mr Mercer does not seek to deny the breach in failing to deposit an agreement, but pleads mitigating circumstances. However, the following exchange from Mr Mercer's second meeting with Mr Mann suggests that he may not originally have intended to deposit the agreement at all:

PM: This document, however, does say the word "Fiji" in it.

DF: OK.

PM: And this, presumably, is completely open to, erm, a Freedom of Information Act request.

DF: Well, if you have to... will you have to lodge it in some way?

*PM: I wouldn't have to lodge it at all.*¹²³

The Registrar has confirmed that Mr Mercer should have deposited this agreement and I agree with her. Again I will return to this later. Mr Mercer did provide a copy of the agreement in his submission to me in July 2013.

c) Whether he failed to declare a relevant interest when (i) tabling five parliamentary questions, (ii) when tabling an early-day motion, (iii) when making approaches to other Members, and (iv) at a meeting of a prospective all-party parliamentary group

109) On this matter, Mr Mercer said:

*"I also accept that my office ... did not complete a box online when submitting parliamentary questions to note that I had an interest in such questions. In 12 years as a Member of Parliament I have rarely had to declare an interest and hence, my staff were simply unfamiliar with the process but I accept full responsibility for not duly checking. However, I did declare such an interest to the potential officers of the proposed All Party Parliamentary Group on Fiji and I believed I had discharged my duties to other Members by doing so."*¹²⁴

Tabling the Parliamentary Questions

The parliamentary questions were all tabled electronically, as shown by the 'e-Tabling email notification' from the Table Office.¹²⁵ This action can only be performed using the Member's own parliamentary ID and password and therefore carries the full authority of the Member concerned. Mr Mercer pleads his lack of familiarity with the process in

122 WE39,p61, 25–30

123 WET6,p33

124 WES, p36

125 WE22, p27

mitigation but does not deny the substantive matter of tabling questions without declaring a financial interest.

The APPG

110) On the declaration of his interest to other members when asking them to join the APPG, Mr Mercer said:

“I spoke to Mr Bill Wiggin about the APPG and he agreed to become a member. I informed him of my interest of a paid consultancy. I believe I also informed Mr Mark Field, Mr David TC Davies and Mr Julian Brazier of my interest. However, the conversations were hurried (and I can’t recall exact dates) and I didn’t go into details, but I firmly believed I had discharged my obligations in informing the potential officers of the interest.”¹²⁶

111) However, it appears that no interest was declared ‘live’ at the time of the inaugural meeting of the APPG on 30 April and Mr Mercer is not clear about this. The notes appended to the minutes supplied by Mr Mercer (but as far as I am aware never circulated to the attendees since the group was never registered) say:

“The minutes will be circulated to all Members, when the Group receives formal confirmation of being registered with the Assistant Registrar.

Mr Mercer wants to make clear that he has an interest in Fiji. This will be displayed on the proposed website of the Group.”¹²⁷

112) Given the context of other failures to declare his interest, Mr Mercer’s lack of certainty about whether he had informed the potential officers of the group of his interest and the second point in the quotation above, I think it is more likely than not that Mr Mercer did not declare his interest at the inaugural meeting.

d) Whether he (i) tabled parliamentary questions and (ii) an early-day motion, and (iii) took steps to establish an all-party parliamentary group, at the request of paying clients;

113) This question goes to one of the most serious aspects of the matter, which is whether Mr Mercer was engaged in paid advocacy in respect of his actions within the House relating to Fiji. That there were clients and that Mr Mercer was paid by them is clearly established and not in dispute. However, Mr Mercer makes two significant points in his defence; first, that he has a long-standing interest in Fiji and that he and Paul Marsden were already actively pursuing the idea of an all-party group for Fiji before Mr Mann contacted him and secondly, that the focus of his paid consultancy as he understood it was on security matters, and not Fiji. He says that the payments were not made to him in respect of his activities within the House.

114) In his submission of 10 July, Mr Mercer says:

126 WES, p28

127 WES, p30

“As someone who has taken an interest in the welfare of Fijians dating back to 2000, I have a long track record of supporting a better quality of life for their soldiers who have a distinguished record in the British Army.”¹²⁸

Later on in the submission, he says:

“I was also very interested in Fiji and Fijian soldiers since I designed their recruitment and training when I served in the Army and Recruiting Training Agency.

As such, it should be no surprise that I have tabled parliamentary questions and spoken out publicly about Australasia and Fiji in particular, as a Member of Parliament. It is important to note that Fiji is not a large country and it is highly unlikely that a Member of Parliament would show a public interest in the country, unless they had a genuine concern about the country.”¹²⁹

He quotes a parliamentary question he asked in 2002 on the subject of Fijian soldiers in the British Army¹³⁰ and two press items from 2004 and 2009 where he made statements on the same subject. He also says:

“There is a clear audit trail demonstrable by handwritten and typed notes that show I had commenced looking at an APPG on Fiji five months before Daniel Mann and Alistair Andrews Communications first contacted me. Furthermore, my association and interest in Fiji and the region dates back to 1998 and I have previously tabled a parliamentary question and given press statements on specifically Fiji over the course of the past 15 years. As such, I was not acting ‘under instruction’ by AAC or anyone else to create an APPG on Fiji, table an early day motion or ask parliamentary questions.”¹³¹

115) Mr Mercer tabled a single question in 2002, and gave two press statements, five years apart, in 2004 and 2009, all of which related to the position of Fijian soldiers in the British Army. In April/May 2013 he tabled five (or six, given that one was ‘carded’) questions plus an early-day motion all related to the position of Fiji itself and its membership of the Commonwealth. This was very different and happened very shortly after Mr Mercer had established a commercial relationship with Mr Mann and signed a contract with Alistair Andrews Communications. It was also done in response to prompting from Mr Mann.

116) Equally, a long-standing interest in Fijian soldiers serving in the British Army is not the same as a long-standing interest in Fiji itself. In our interview on 10 December 2013, Mr Mercer said

“The overall case of Fiji was not as important to me as the case of Fijian soldiers serving inside the Army.”¹³²

128 WES, p4

129 WES, p6-7

130 WES, p7

131 WES, p10

132 WE39, p54, 31

117) Elsewhere in the interview, however, he indicates that this does not preclude a more general interest:

*“the Fijian case, with all of its difficult human rights stuff, its remoteness, its coups and counter-coups, military government and the rest of it, all of that sits in parallel to my particular, my narrower interest, which was the military side.”*¹³³

118) Mr Mercer’s claim to have a genuine interest in Fiji as a nation and concern for the welfare of Fijians generally is undermined by other evidence. For example, in his first telephone conversation with Mr Mann on 6 March 2013, the following exchange took place:

“DF: ... I don’t know if you’re up to speed on Fiji’s situation.

*PM: I am a little bit but I wouldn’t claim to be 100 per cent with it but no, tell me a bit more.”*¹³⁴

119) In Mr Marsden’s second telephone conversation with Mr Mann on 6 March, before they had met, far from pretending to any great knowledge of Fiji, he said,

“I shall be there and I will have done a little bit of reading about Fiji.”

120) At his first meeting with Mr Mann on 13 March he asked whether there are *“Fijian media stars of any sort”*, and when trying to think of Fijian attractions he said, *“I don’t know, I’m sorry, you’d have to help me..”* and went on to say,

*“I guess there’s Fijian music, isn’t there?... I... You know... I’m sorry, I’ve never been to Fiji but I hope you’ll put that right for me”*¹³⁵

and to ask,

*“Is there a Fijian community anywhere in the UK?”*¹³⁶

He also said

*“I have to confess I’ve no idea what Fiji is like.”*¹³⁷

121) In our interview he told me that he considered himself unusual among his colleagues in not having any interest in travelling to Fiji. He said,

*“And who wouldn’t want to go to Fiji—except me?”*¹³⁸

122) On the other hand it should be noted that Mr Mercer’s assertion that the idea of setting up an all-party group on Fiji was already well advanced before Mr Mann approached him is supported by evidence presented by Paul Marsden. Mr Marsden’s

133 WE39, p58, 5–7

134 WET1, p2

135 WET3, p13

136 WET3, p14

137 WET3, p18

138 WE39, p64, 30-31

notebook entries from November 2012 onwards record plans for setting up a group on some aspect of the Australasia region. For example, an entry relating to a phone call dated 14 November 2012 says

“PMe Telcon–Australasia

Interested in region–check APPGs

Solomon Islands, Australia, NZ, PNG [Papua New Guinea], Fiji - sugar, Tonga

*check industries - what quantities?”*¹³⁹

123) In his contribution to Mr Mercer’s submission to me, and again in our interview, Mr Marsden suggested that interception of this and/or other telephone calls between him and Mr Mercer could have been the basis of the ‘entrapment’ that followed. Mr Marsden said:

*“On 7 March (I think), Patrick called to say he had been approached by Daniel Mann of Alistair Andrews Communications and the issue of Fiji had come up. We were both concerned that our phones had been hacked (in view of the Glen Mulcaire issue), as they were talking about an APPG. However, we assumed it was a coincidence and fitted with existing plans.”*¹⁴⁰

In interview, Mr Marsden said

*“It’s a heck of a coincidence, let’s put it that way, but there is absolutely no evidence that the phones were hacked. But quite clearly they are used to covert surveillance, given what then transpired. It could be a complete coincidence.”*¹⁴¹

124) The fact that Mr Mercer struck out the reference to Fiji in the contract he signed on 20 March 2013 must also be considered. Mr Mercer gives two reasons: first, that he was expecting to be consulted not on Fiji but on “*defence, security, policing matters, etc.*”; and secondly, that he was doing parliamentary work on Fiji on his own initiative, because of a genuine interest in the region, and was aware that it would not be proper to be paid for that. On that subject, we had the following exchange:

“KH—...if we go back a bit to your earlier contact with Mr Mann, on the business of the contract, and the fact that then you took Fiji out of it.

PM—Yes.

KH—Would you like to talk me through what your thinking was around that?

PM—Yeah, sure. There are a series of comments by me saying that the—I can’t quote them, but I will if you want me to—saying, “The work that I do with the all-party parliamentary group and the work associated with it is nothing to do with the consultancy which you are asking me to carry out, which I see being involved in defence, security, policing matters, etc.” When the contract was

139 WES, p42

140 WES, p47

141 WE33, p42, 37–39

given to me—it was quite clear that I should have taken the contract away and looked at it more carefully, but it was clear that this was confused. I was not going to include any of the direct Fijian—

KH—But Daniel Mann didn't ever ask you to undertake any security work.

*PM—No, he didn't, but I was expecting him to.*¹⁴²

“PM—... The reason I expunged the Fijian stuff from the contract was precisely for that reason, because I did not see myself receiving remuneration for the parliamentary work that I was doing.

KH—Despite the fact that he had not actually asked you to do anything else other than the work on Fiji.

*PM—No, but I was expecting him to do that.*¹⁴³

125) I have tried to identify the ‘series of comments’ to which Mr Mercer alludes in the extract above. I believe the only clear instance is in the fourth meeting with Mr Mann (18 April) in Mr Davies’ presence when he says:

*“So, so you have taken me on to advise your firm on a number of different issues of which certainly Fiji is one but there are a number of different things which we will be talking about and it's terribly important please that we continue to have that absolutely right and proper fire break between saying oh well you know, I've caught myself a couple of members of parliament who will set up APPGs and do what we ask them because we won't and it's, it's desperately important ... as far as I am concerned I am awaiting the other work which your firm will ask me to do on other subjects and that is why the contract of course makes no reference at all to Fiji nor should it..”*¹⁴⁴

126) In addition to the above, one of the most serious implications of the interviews is that Mr Mercer was willing to allow the all-party parliamentary group on Fiji effectively to be ‘bought’ by Fijian interests, and to have the outcome of its deliberations pre-determined by them. This is an allegation that both Mr Mercer and Mr Marsden strongly contest, and it is true that Mr Mercer expressed some caveats to Mr Mann. However, when pressed by Mr Mann, he did make it apparent that the outcome would probably be as the client wished. The most explicit reference to this comes in their fourth meeting on 18 April, where the following exchange takes place:

“DM: And is Paul across what we also talked about i.e. in terms of the fact that we need this report obviously to have a helpful conclusion?

*PM: Totally.*¹⁴⁵

142 WE39, p59, 5–27

143 WE39, p60, 3–6

144 WET 9, p67 & p68

145 WET9, p73

127) By the time of the fifth meeting, on 25 April, Mr Mercer seems to take a more cautious approach:

“Well, er, let’s be clear about this, if, if you were to say to me, er, ‘Right, Patrick, I want you to, to get a report the result of which will be as follows.’ Then I would say, ‘No, I’m not going to do that. That is not right and that is not proper.’ I am satisfied that the... My own persuasion is, from what I have seen and what I’ve seen so far, is that Fiji would be much better off in, back inside the Commonwealth and the Commonwealth would be much better off with Fiji being there. But, the only value that a report like this will have is if it is completely even handed”¹⁴⁶

“ ... I cannot deliver you, er, a report that, that is canted, otherwise it’s valueless.”¹⁴⁷

128) However, even at this stage, when Mr Mann seems hesitant in his reaction to this, Mr Mercer seeks to reassure him by saying:

“PM: If you ask me, and, and you’ve said to me am I a betting man, I would be very surprised if we don’t find a, a pretty benign picture of what’s going on.

...

PM: Does that help?

DM: Yeah, that does help.”¹⁴⁸

That does appear to be a clear understanding of the expected direction of the work.

129) Mr Mercer appears also to defend himself by saying that he did not know who the clients were. In the introduction to his submission of 10 July, he said:

“I also must point out that at no stage did I know the identity of the end client because the journalist, Daniel Foggo purporting to be ‘Daniel Mann’, would not tell me.”¹⁴⁹

130) While this statement is inaccurate in that Mr Mann had given the name of the organisation, it merely compounds the problem. Mr Mercer had a responsibility to know who was employing him and to declare that information to the Registrar and to the House on appropriate occasions. It cannot be any defence to an allegation of paid advocacy that Mr Mercer did not know who was paying him.

- e) *Whether his conduct was such as to cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.*

131) Rule 16 of the Code of Conduct says:

146 WET11, p121

147 WET11, p125

148 WET11, p125-126

149 WES, p5

“Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.”

This rule is widely drawn and in common with the other rules of conduct no attempt is made to define it further. A distinction is not made for example between conduct which is likely to bring the individual Member him or herself into disrepute as opposed to the House as a whole, nor is it clear where the bar might be set other than to say that damage must be “significant” and the bar is therefore a high one. When this rule was reformulated in the most recent change to the Rules the then Commissioner stressed;

“I consider it is right that the rule should continue to be set at the level where the Member’s conduct reaches the high threshold of affecting the reputation and integrity of the House as a whole or of its Members generally. It is not, in my judgement, for the House to adjudicate on lesser misconduct, however ill-advised it may be or however it may reflect on the individual Member. That, in my view, is not a matter for the House and the Commissioner, but for the electorate.”

There are some precedents which establish the type of conduct which is likely to be considered to be in breach of this rule. For example, in 2010–11 the Committee on Standards considered a number of complaints against Members that they were prepared to use their experience to help a company to lobby Ministers and officials after they left the House.¹⁵⁰ As part of that, they found that statements Mr Byers had made suggesting that he knew ways around the Enterprise Act, that he had influenced Ofwat’s investment programme and that he had contacts with civil servants were untrue and that these untruths themselves brought the House into disrepute. Similarly they considered that the impression given by Mr Hoon that he was offering to brief a client about a strategic defence review on the basis of a confidential briefing, and thus was prepared to share inside knowledge brought the House into disrepute.

132) An earlier precedent had been set in the case of Dr Desmond Turner¹⁵¹ when the Committee agreed with the Commissioner’s judgment that “his conduct risk[ed] causing wider damage to the reputation of the House”:

“Dr Turner’s personal reputation is undoubtedly damaged by his behaviour on this occasion Dr Turner was clearly acting in a parliamentary capacity and ...he made it clear that Mr A. must have ‘led a sheltered life’ if he was not used to being sworn at by elected representatives. The clear implication of this remark is that it is both acceptable and normal for Members to do so, an impression that can only be damaging to the reputation of the House as a whole.”¹⁵²

150 Ninth report of 2010–11

151 14th report of 2005–06

152 Fourteenth report from the Committee of Standards and Privileges of Session 2005–06, *Conduct of Mr Desmond Turner*, HC 1578, para 5

133) In his investigation concerning Ms Emily Thornberry,¹⁵³ in which a complaint that she had brought the House into disrepute was not upheld, one of my predecessors sets out two possible tests of actions which might cause damage to the reputation or integrity of the House or its Members. These were:

- Was the action complained of taken in a parliamentary capacity ... in relation to which his or her membership of the House is relevant to a material extent?
- Was the conduct such as might reasonably be considered likely to damage public trust and confidence in the integrity of Parliament or to bring the House or its Members generally into disrepute?

134) In all these situations, with the exception of that of Ms Thornberry, Members behaved inappropriately or indiscreetly on single occasions, in situations which they considered to be private and confidential, but which were nevertheless related to their position as Members. Mr Mercer's situation was different in that, although he was similarly in a situation which related to his position as a Member, he made a variety of indiscreet comments and undertook various actions which amounted to lobbying over a period of weeks. In doing so he undermined and misrepresented the way in which the House was regulated, created a perception that damage to individuals and the House was caused only by the attention of the press, and encouraged the view that a large number of Members of the House are not to be trusted but are seeking to advance their own interests.

135) In addition to this Mr Mercer himself appears not to have understood the implications of his own actions. He appeared not to heed either the warnings of others, or his own doubts about the situation into which he had placed himself. When challenged in his interview with me concerning this, Mr Mercer could only say that he had been very naïve.

136) It is the combination of these different aspects of this case, together with some clear breaches of other specific rules which lead to a view that the House has been brought into disrepute. However, it may in fact be the case that any one of these issues might have been sufficient alone.

137) There can be little doubt that public perceptions of Parliament are damaged by situations in which individuals are believed to have exploited their position as Members of Parliament for profit, and it is clear that to that extent that on this occasion significant damage was caused to the reputation of the House. Mr Mercer took no care to protect either himself or the House either before he became involved with Mr Mann, or by considering carefully the concerns raised by others at a later stage. However, as Mr Mercer contends that the television programme, in particular, gave a severely distorted version of his words and actions, I have placed no reliance on the picture as presented by journalists, but have addressed this allegation by considering Mr Mercer's own words and actions.

153 Eleventh report from the Committee of Standards and Privileges of Session 2005–06,

138) The other aspect in which Mr Mercer may be argued to have damaged the reputation of Parliament is in his use of language and the expression of views that many would find deeply offensive. In speaking of a trip to Israel, he said

*“I got a sort of rifle stuck up my nose when I was trying to go into one of the intelligence establishments by, I don’t know, an 18-year-old girl wearing uniform, but with her sort of hair in plaits and, and crazy jewellery and, and open-toed sandals, with a rifle up my nose. Er, Who the fuck are you?, You know? “Well I’m a soldier.” Are you, you don’t look like a soldier to me, you look like a bloody Jew, but er, I’ve no, no doubt if I’d come up with the wrong answer I’d have had my head blown off”.*¹⁵⁴

139) Mr Mercer initially denied having said this -

*“with regard to the latter comment about the Israeli soldier, our client states that this is a mishearing”*¹⁵⁵ -

but acknowledged and apologised for it immediately on being presented with the recorded evidence:

*“I am very contrite about the way I relayed the story and using language that may offend an ethnic grouping”.*¹⁵⁶

140) I asked Mr Mercer to account for this when I wrote to him on 11 February 2014. He elected to do this in person rather than in writing and we discussed it when I interviewed him on 25 February. When I asked him about the remark about the soldier, he mentioned that he had been very tired at the time, having just returned from another trip to Israel, and complained that other parts of his conversation with Mr Mann—for instance about Skye—had, by contrast, not been recorded verbatim.. He apologised again, and said *“It’s a stupid thing to say ... I have apologised fulsomely. I am married to a woman of Jewish extraction. I have lots of friends in the Jewish community, and—yes, I can prostrate myself no further, it’s just a stupid thing to say, and I didn’t even—I accept I said it, and I am conscious that my speech isn’t always as balanced as it should be.”*¹⁵⁷

Conclusion

141) In this memorandum I have had the advantage of being able to consider both the circumstances surrounding the events which gave rise to the newspaper articles and television programme and the unedited recordings of Mr Mercer’s conversations with the undercover reporter. I have also given careful consideration to Mr Mercer’s own account of events both in his detailed submission to me dated 10 July 2013 and in the interviews I conducted with him on 10 December 2013 and 25 February 2014, as well as that of Mr Paul Marsden, who was working closely with him throughout the period under consideration.

154 WET11, p132–133

155 WES, p92

156 Included in redacted material from WES, appendix 12

157 WE42, p72, 7–11

142) In respect of each of the allegations,

- a) *Whether Mr Mercer failed to register monies received for the provision of consultancy services;*
- b) *Whether he failed to deposit an agreement for the provision of services;*
- c) *Whether he tabled parliamentary questions and an early-day motion, and took steps to establish an all-party parliamentary group, at the request of paying clients;*
- d) *Whether he failed to declare a relevant interest when tabling five parliamentary questions, when tabling an early-day motion, when making approaches to other Members, and at a meeting of a prospective all-party parliamentary group;*
- e) *Whether his conduct was such as to cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally*

Mr Mercer has admitted b) and d) and I find that the other allegations are borne out by the facts, with the exceptions noted below.

143) Mr Mercer did register monies received from ‘Alistair Andrews Communications’, but the registration of the first payment of £2,000 was made after the four-week deadline stipulated in the rules. The second payment was not registered late but both payments were registered after the ‘sting’ operation against him had been revealed. He did not provide details of the clients of Alistair Andrews Communications for whom he was working.

144) In relation to the mitigating factors to which Mr Mercer has drawn my attention, Mr Mercer has been dealing with a number of complex family problems. While I have sympathy with his position these bear no relation to my findings of fact and do not alter the conclusion that Mr Mercer was seriously in breach of the relevant rules of the House as I have outlined.

145) In relation to c), I conclude that Mr Mercer’s actions in tabling the questions and the early-day motion and in setting up the group were at the very least significantly influenced by his relationship with a paying client. I accept that he had a long-standing interest in Fijian soldiers serving in the British Army, and that this may have prompted some interest in the region generally, but the particular choice of Fiji and, perhaps more importantly, the attempt to influence positively the UK Government’s attitude towards Fiji’s readmission to the Commonwealth, is closely linked to the financial reward that was being offered to himself and that which he was seeking on behalf of Mr Marsden. Both men confirm that Mr Marsden was actively looking for paid work, and it is hard to avoid the conclusion that the prospect of the earnings that appeared to be on offer to both of them overrode other considerations.

146) I find that in allowing payment to influence his actions in parliamentary proceedings, in failing to declare his interests on appropriate occasions, in failing to recognise that his actions were not in accordance with his expressed views on acceptable behaviour, in repeatedly denigrating fellow Members both individually and collectively,

and in using racially offensive language, Mr Mercer inflicted significant reputational damage on the House and its Members.

Appendix 2: E-mail from Patrick Mercer to the Clerk of the Committee

Thank you for your letter of 2nd April 2014. I note all the points that you make in it and whilst intensely disappointed with much of what the Commissioner has had to say, I have nothing further to add.

I would like to apologise to the Committee, and to make clear my contrition. Similarly, the waste of time and resource that this Inquiry has caused is a matter of deep regret to me.

Published written evidence

The evidence listed below will be published on the Committee's website:
www.parliament.uk/standards

Written evidence (WE 1–WE 46)

1. Article published in The Daily Telegraph, 31 May 2013
2. Additional Article published in The Daily Telegraph, 31 May 2013
3. Letter to the Commissioner from Mr Patrick Mercer MP, 3 June 2013
4. Letter (sent via e-mail) to Mr Patrick Mercer MP from the Commissioner, 3 June 2013
5. Letter to the Editor of Panorama (BBC) from the Commissioner, 12 June 2013
6. Letter to the Editor of The Daily Telegraph from the Commissioner, 13 June 2013
7. Letter to Mr Patrick Mercer MP from the Commissioner, 13 June 2013
8. Appendices to letter to Mr Patrick Mercer MP from the Commissioner, 13 June 2013
9. Article by The Daily Telegraph Political Correspondent, 13 June 2013
10. Letter to the BBC Litigation Department from the Commissioner, 25 June 2013
11. Letter to the Commissioner from the Political Editor of The Daily Telegraph, 25 June 2013
12. Letter to the Political Editor of The Daily Telegraph from the Commissioner, 27 June 2013
13. E-mail to the Commissioner from Mr Patrick Mercer MP, 11 July 2013
14. Cover letter to the Commissioner from Mr Patrick Mercer MP, 11 July 2013
15. Letter to the Commissioner from BBC Litigation Department, 16 July 2013
16. Letter to BBC Litigation Department from the Commissioner, 18 July 2013
Supporting and Background Evidence
17. Early Day Motion drafted by Mr Daniel Mann and given to Mr Patrick Mercer MP, 20 March 2013
18. Contract signed by Mr Mercer, 20 March 2013
19. Early Day Motion 1249, tabled 26 March 2013
20. Question to be raised in Parliament, drafted by Mr Daniel Mann, 18 April 2013
21. Bank Statement of Alistair Andrews Communications, 9 May 2013
22. E-mail Exchange between Mr Patrick Mercer MP and Mr Daniel Mann on 13 May 2013
23. Written Parliamentary Questions, Hansard, 16 May 2013 31
24. E-mail Exchange between Mr Patrick Mercer MP and Mr Daniel Mann on 17 May 2013
25. Written Parliamentary Question, Hansard, 20 May 2013
26. Bank Statement of Alistair Andrews Communications, 7 June 2013
27. Extract from Register of Members' Financial Interests for Mr Patrick Mercer MP, 10 June 2013
28. Extract from Register of Members' Financial Interests for Mr Patrick Mercer MP, 24 June 2013
29. Letter to Mr Patrick Mercer MP from the Commissioner, 16 July 2013
30. Letter to Mr Patrick Mercer MP from the Commissioner's office, 22 July 2013
31. Letter to Mr Patrick Mercer MP from the Commissioner, 12 September 2013
32. Letter to Mr Paul Marsden from the Commissioner, 25 September 2013
33. Transcript of Interview with Mr Paul Marsden, 12 November 2013
34. Letter to Mr Paul Marsden from the Commissioner, 20 November 2013

35. Letter to Mr Patrick Mercer MP from the Commissioner, 20 November 2013
36. E-mail to the Commissioner from Mr Paul Marsden MP, 20 November 2013
37. Letter to Mr Patrick Mercer MP from the Commissioner, 25 November 2013
38. Letter to Patrick Mercer MP from the Commissioner, 4 December 2013
39. Transcript of interview with Mr Patrick Mercer MP, 10 December 2013
40. E-mail to the Commissioner's office from the office of Mr Patrick Mercer MP, 20 December 2013
41. Letter to Mr Patrick Mercer MP from the Commissioner, 11 February 2014
42. Transcript of interview with Mr Patrick Mercer MP, 25 February 2014
43. Letter to the Registrar of Members' Financial Interests from the Commissioner, 3 March 2014
44. Letter to the Commissioner from the Registrar of Members' Financial Interests, 10 March 2014
45. Letter to Mr Patrick Mercer MP from the Commissioner, 19 March 2014
46. E-mail to the Office of the Parliamentary Commissioner for Standards from the Office of Mr Patrick Mercer MP, 26 March 2014

Written evidence transcripts (WET 1–13)

1. Transcript of telephone call with Mr Patrick Mercer MP, 6 March 2013
2. Transcript of telephone call with Mr Patrick Mercer MP, 6 March 2013
3. Mr Patrick Mercer MP 1st Meeting 13 March 2013 CHECKED
4. Transcript of two telephone calls with Pr Patrick Mercer MP, 14 March 2013
5. Transcript of two telephone calls with Mr Patrick Mercer MP, 15 March 2013
15 March 2013
6. Mr Patrick Mercer MP 2nd Meeting, 20 March 2013 CHECKED
7. Transcript of two telephone calls with Mr Patrick Mercer, 25 March 2013
8. Mr Patrick Mercer MP 3rd Meeting, 15 April 2014 CHECKED
9. Mr Patrick Mercer MP 4th Meeting, 18 April 2013 CHECKED
10. Transcript of two telephone calls with Mr Patrick Mercer MP, 16 April 2013
11. Mr Patrick Mercer MP 5th Interview, 25 April 2013 CHECKED
12. Transcript of telephone call with Mr Patrick Mercer MP, 26 April 2013
13. Transcript of telephone call with Mr Patrick Mercer MP, 1 May 2013

Written evidence Submission (WES (pages 1–92))

Formal Minutes

Tuesday 8 April 2014

Members present:

Kevin Barron, in the Chair

Sir Paul Beresford	Mr Peter Jinman
Mr Robert Buckland	Fiona O'Donnell
Mr Tom Clarke	Mr Walter Rader
Mr Geoffrey Cox	Dr Alan Whitehead
Sharon Darcy	

Draft Report (*Patrick Mercer*), proposed by the Chair, brought up and read as follows:

1. This case arises from a media investigation first published through articles in the Daily Telegraph and on the BBC News website.¹ Mr Patrick Mercer, the MP for Newark, was approached by a journalist purporting to be a public affairs consultant representing a group called “Friends of Fiji”, who wished to campaign for the readmission of Fiji into the Commonwealth, and sought to do so by hiring people to use influence on its behalf. Between the initial approach from the “consultant” on 6 March and the last meeting between them on 25 April, Mr Mercer tabled five Parliamentary questions² and an Early Day Motion (EDM),³ and actively sought to set up an All Party Parliamentary Group (APPG) on Fiji.⁴ On 31 May 2013 articles appeared in the Daily Telegraph about the case, and a Panorama programme was broadcast on 6 June 2013.

2. As a result, Mr Mercer referred himself to the Parliamentary Commissioner for Standards. She decided to start an inquiry on her own initiative. The Commissioner determined that the issues she should investigate were that, contrary to the rules of the House, Mr Mercer had:

- failed to register monies received for the provision of consultancy services;
- failed to deposit an agreement for the provision of services;
- failed to declare a relevant interest when tabling five parliamentary questions, when tabling an early-day motion, when making approaches to other Members, and at a meeting of a prospective All-Party Parliamentary Group; and
- tabled parliamentary questions and an early-day motion, and taken steps to establish an All-Party Parliamentary Group, at the request of paying clients.⁵

1 WE 1 and WE 2

2 About 45,000 parliamentary question for written answer are tabled each year.

3 Well over 1,000 EDMs are tabled each year. It is extremely rare for any of these Motions to be actually debated: they serve rather as expressions of opinion (in up to 250 words) which may attract the names of other backbench MPs in support.

4 A list of the 599 currently registered All Party Groups (of which 133 are “country” Groups) may be seen on the Parliamentary webpages at House of Commons - Register of All-Party Groups

5 WE 7

The Commissioner also considered whether Mr Mercer's conduct was such as to cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

3. To ensure absolute accuracy Commissioner has based her findings on the transcripts of the interviews which took place, not on the programmes and articles derived from them. We consider this the appropriate way to proceed.

4. The Commissioner's memorandum speaks for itself. Mr Mercer readily signed an agreement for consultancy services with the "consultant". He failed to register this agreement. Mr Mercer also failed to declare his interest when tabling parliamentary questions and an EDM about Fiji. We also agree with the Commissioner that it is more likely than not that he failed to declare his interest at the inaugural meeting of the APPG.

5. The most serious matter considered by the Commissioner was whether Mr Mercer was willing to use his position as an MP to further the interests of paying clients, through taking part in parliamentary proceedings or setting up an APPG. Although Mr Mercer struck out references to Fiji in the contract he signed, and occasionally claimed that he was not being paid for work to do with his parliamentary duties, his actions, and his words on other occasions, told a very different story. When he was pressed about the questions he was happy to report on progress. He regularly reported back on progress in setting up an APPG. He pushed for a "foundation" to support the APPG, to ensure that it was effective, and, it appears, to provide employment for an associate. He offered to procure a pass for a member of staff of that APPG. While he warned that he could not guarantee a "satisfactory" report from the APPG, he was quick to reassure his client that it was likely that such a report would achieve their aims. In addition to his actions in tabling questions in setting up an APPG, identified by the Commissioner, the transcripts make clear Mr Mercer also volunteered to make approaches to a Minister and host the "*Friends of Fiji*" in the House of Commons.

6. Mr Mercer's claim that he had a genuine interest in Fiji because of his army experience working with Fijian soldiers and because the country's sugar industry was a potential competitor to business in his constituency is thin. As the Commissioner sets out:

Mr Mercer tabled a single question in 2002, and gave two press statements, five years apart, in 2004 and 2009, all of which related to the position of Fijian soldiers in the British Army. In April/May 2013 he tabled five (or six, given that one was 'carded') questions plus an early-day motion all related to the position of Fiji itself and its membership of the Commonwealth. This was very different and happened very shortly after Mr Mercer had established a commercial relationship with Mr Mann and signed a contract with Alistair Andrews Communications. It was also done in response to prompting from Mr Mann.⁶

7. This is a very different case from that of Mr Yeo, in which Member accepted a single lunch and the very next day said that he considered the "company" concerned was seeking someone to advance its interests by lobbying which was not compatible with his position as an MP.⁷ Mr Mercer paid lip service to the idea that he could not be paid for lobbying, but in fact his actions over five meetings over more than four weeks showed that he was not only willing to act in return for payment himself, but would use his colleagues to further his clients' interests. As the Commissioner's report makes clear, there is no indication that other potential members of the APPG were aware of Mr Mercer's commercial interests.

8. We agree with the Commissioner's conclusion that:

6 Appendix 1, para 115

7 Committee on Standards, Fifth Report of Session 2013–14, *Mr Tim Yeo*, HC 849

in allowing payment to influence his actions in parliamentary proceedings, in failing to declare his interests on appropriate occasions, in failing to recognise that his actions were not in accordance with his expressed views on acceptable behaviour, in repeatedly denigrating fellow Members both individually and collectively, and in using racially offensive language, Mr Mercer inflicted significant reputational damage on the House and its Members.⁸

9. This is a very serious matter indeed. It is not for this Committee to determine whether or not MPs should be allowed to have external interests. Even where MPs are acting in accordance with the rules, they are expected to declare their interests. The Committee on Standards and Privileges made it clear that it would regard it as a very serious breach of the rules if a Member failed to register or to declare an interest which was relevant to proceeding which he or she had initiated, and that similar considerations would apply in the case of approaches to Ministers and others.⁹ **Mr Mercer deliberately evaded the rules intended to provide transparency and accountability.**

10. Mr Mercer's actions were worse than simple non-declaration. While the rules currently permit MPs to have external interests, and to use the expertise they gain from them in the service of the House, paid lobbying is prohibited. The rules about the conduct of Members provide that no Member shall act as a paid advocate in any proceeding of the House. Those rules are very long-standing, and have been extended to prohibit lobbying approaches to colleagues, Ministers or servants of the Crown.

11. In November 2013, the Committee issued a report APPGs and made a number of recommendations to increase transparency about their funding and support, and to make it clearer which Members were directly involved with their work. We expect that our recommendations will be debated in the very near future. In that report we said:

[...] the Committee recognises, as Ann Coffey MP stated in her evidence to the Committee, that:

Lobbying is part of the parliamentary process, and it is right that people from outside feel that they can contribute to the democratic decisions that are made. It is the strength of democracy.

Parliament should not exist in a bubble. Indeed, the House of Commons Outreach service identifies APPGs as one way in which members of the public and campaigning groups can find Members likely to support them. The challenge is to make sure that such lobbying as is permitted is appropriate. Whatever the rules, it is always possible for there to be improper lobbying.¹⁰

The rules recognise that lobbying by third parties can be a legitimate part of the process, but it is wholly improper for a Member to be a paid lobbyist. **Mr Mercer not only engaged in paid advocacy himself, but he also brought the House into disrepute. As the Commissioner said, he denigrated his colleagues individually and collectively, and involved them in setting up an APPG, without making clear that in doing so they were furthering his commercial interests.**

8 Appendix 1, para 146

9 House of Commons, The Code of Conduct together with The Guide to the Rules relating to the conduct of Members: 2012, Session 2010–12, HC 1885, para 97

10 Committee on Standards, Sixth Report of Session 2013–14, *All-Party Parliamentary Groups*, HC 357, para 19

12. Mr Mercer has apologised both to the Commissioner and to ourselves. He has said that he will stand down at the next general election.¹¹ We consider in the light of this he should repay the “consultancy fees”, if he has not already done so. We recognise Mr Mercer’s contrition. We consider that this breach of the rules is so serious that this apology and undertaking to stand down is inadequate.

In similar cases, the Lords Committee on Privileges and Conduct recommended suspensions of four and six months.¹² While we recognise that suspension will have an effect on Mr Mercer’s constituents, we consider a similar penalty is appropriate in this case. **We recommend that Mr Mercer be suspended from the House (which includes loss of salary and pension contributions) for a period of six calendar months.**

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 12 read and agreed to.

In the absence of the Chair, Dr Whitehead was called to the Chair.¹³

Paragraph 13 read and agreed to.

Two papers were appended to the Report as Appendices 1 and 2.

Resolved, That the Report be the Eleventh Report of the Committee to the House.

Written evidence received by the Parliamentary Commissioner for Standards (WE 1–46 and WET 1–13) was ordered to be reported to the House for publishing with the Report.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149 (9)).

Ordered, That the Chair make the Report to the House.

[Adjourned till Wednesday 9 April at 9.30 am

11 “Patrick Mercer ‘taking legal advice over allegations’”, *ITV News*, 9 June 2013, www.itv.com/news

12 House of Lords, *The conduct of Lord Mackenzie of Framwellgate*, Ninth Report of the Committee on Privileges and Conduct, HL Paper 95; House of Lords, *The Conduct of Lord Laird*, Tenth Report of the Committee on Privileges and Conduct, Session 2013–14, HL Paper 96

13 The Chair was absent from the meeting for the consideration of paragraph 13 due to an Urgent Question in the Chamber on Parliamentary Standards.

Wednesday 9 April 2014

Members present:

Kevin Barron, in the Chair

Sir Paul Beresford

Mr Robert Buckland

Mr Tom Clarke

Mr Geoffrey Cox

Sharon Darcy

Sir Nick Harvey

Fiona O'Donnell

Heather Wheeler

Dr Alan Whitehead

Patrick Mercer

Resolved, That all proceedings on 8 April relating to the Report on *Patrick Mercer* be rescinded.

[Adjourned till Tuesday 29 April at 9.30 am

Tuesday 29 April 2014

Members present:

Kevin Barron, in the Chair

Sir Paul Beresford	Sir Nick Harvey
Mr Robert Buckland	Mr Peter Jinman
Mr Christopher Chope	Mr Walter Rader
Mr Tom Clarke	Heather Wheeler
Mr Geoffrey Cox	Dr Alan Whitehead
Sharon Darcy	

Mr Robert Buckland declared the following pecuniary interest: Crown Court Recorder (part-time circuit judge).

Mr Geoffrey Cox declared the following pecuniary interest: Practice at the Bar of England and Wales, Messrs. Janes, solicitors.

Draft Report (*Patrick Mercer*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 28 read and postponed.

Paragraph 29 read.

Motion made, to leave out paragraph 29 and insert the following new paragraph:

We consider Mr Mercer has abused his office, and if we were to suggest an appropriate suspension, his constituents would effectively be unrepresented until the general election. Moreover, we recognise there is an appetite for voters to have a say in cases such as this. We recommend that Mr Mercer be expelled. A Member who is expelled is not disqualified. Mr Mercer is free to stand again if he wishes, and his constituency can elect him again if it considers it appropriate.—(*Mr Tom Clarke*)

Question put, That the new paragraph be read a second time.

The Committee divided.

Ayes, 1

Mr Tom Clarke

Noes, 7

Sir Paul Beresford
Mr Robert Buckland
Mr Christopher Chope
Mr Geoffrey Cox
Sir Nick Harvey
Heather Wheeler
Dr Alan Whitehead

Question accordingly negatived.

Paragraph 29 read.

Amendment proposed in line 6 to leave out “six” and insert “eight”.—(*Dr Alan Whitehead*)

Question put, that the amendment be made.

The Committee divided.

Ayes, 1

Dr Alan Whitehead

Noes, 6

Sir Paul Beresford
Mr Robert Buckland
Mr Christopher Chope
Mr Geoffrey Cox
Sir Nick Harvey
Heather Wheeler

Question accordingly negatived.

Paragraph agreed to.

Postponed paragraphs 1 to 28 read again and agreed to.

Two papers were appended to the Report as Appendices 1 and 2.

Resolved, That the Report be the Eleventh Report of the Committee to the House.

Written evidence received by the Parliamentary Commissioner for Standards (WE 1–46, WET 1–13 and WES) was ordered to be reported to the House for publishing with the Report.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149 (9)).

Ordered, That the Chair make the Report to the House.

[Adjourned till Tuesday 13 May at 9.30 am