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Group of States against Corruption



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Corruption prevention in respect of members of
Parliament, judges and prosecutors

EVALUATION REPORT

UNITED KINGDOM

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EXECUTIVE SUMMARY

1. The United Kingdom has taken important steps to strive for improvement in the prevention of corruption in all three sectors of activity subject to the present evaluation. These steps are in addition to the fact that Members of Parliament, judges and prosecutors do not have any general immunity from prosecution for criminal conduct.

2. In so far as Members of Parliament are concerned, in order to address inappropriate but non-criminal conduct, a developed system of rules on ethics and conduct has been adopted in both Houses. Codes of Conduct, supplemented by detailed guidance, are in place and reviewed at regular intervals. Conflicts of interest are primarily addressed through greater transparency of parliamentarians' private interests and activities rather than through regulation or restriction of those activities. Parliamentarians are not, for example, prevented from having outside employment or engaging in most remunerated activity; but in turn, there is a registration system requiring them to disclose, in writing, their relevant interests, coupled with an additional requirement of ad-hoc oral declarations at the outset of parliamentary proceedings. Both the registers and the declarations of interests during debates are available for public inspection. There are specific rules banning paid advocacy or accepting any financial inducement for parliamentary influence. In so far as the enforcement of the rules is concerned the system relies on self-regulation, but Parliament has introduced a number of innovations to add an element of independence to the disciplinary process: independent Commissioners are responsible for investigating cases and the imposition of penalties is decided within Parliament by specific ethics committees. The House of Commons is in the process of incorporating external lay members who are not and have never been parliamentarians to the membership of its Committee on Standards.

3. Despite the rules and mechanisms to ensure transparency and accountability in the functioning of Parliament and to provide a solid basis for a culture of integrity among its members, public trust in the integrity of parliamentarians remains low. Incidences of wrongdoing within the last ten years involving more than one isolated Member, although addressed by each House, have not helped build public confidence. Once lost, confidence takes substantial time and effort to regain; fortunately, the UK Parliament has the basic structures in place to do so. As in any structure designed to promote and maintain integrity, however, success will depend significantly on the continued commitment of the leadership and the individual Members.

4. A number of positive steps have been initiated to address public outcry, notably by increasing the transparency and accountability of the system. A more robust oversight regime for allowances and reimbursements of members of the House of Commons was introduced in 2009, following the expenses controversy, through the creation of an independent statutory body (IPSA). The rules governing House of Lords expenses were clarified and simplified in 2010. Regulatory and institutional arrangements have been developed to allow for more proactive and independent investigations of misconduct in Parliament (e.g. by enabling the respective Commissioners on Standards in the House of Commons and the House of Lords to start investigations on their own initiative). Further initiatives are underway to reform the system of discipline in the House of Commons (e.g. draft legislation on recall of MPs, initiatives to incorporate lay members to the operation of the Committee on Standards), to establish a statutory register of lobbyists, to review guidance on ethics and conduct and thereby better address certain conflicts of interest (e.g. lobbying for consideration), etc. The present report takes account of all these valuable initiatives and further supports the on-going reflection in the country on reinforcing transparency and accountability mechanisms, strengthening available guidance and support to parliamentarians for meeting their responsibilities and obligations under the present regulatory framework, and making the public aware of the steps taken and the tools developed or under way to instil, maintain and promote a strong culture of ethics among parliamentarians.

5. The judiciary is ranked as the most trusted institution by the public in the United Kingdom, with an untarnished reputation of independence, impartiality and integrity of its members. Nothing that emerged from the current evaluation indicated that there was any element of corruption in relation to judges nor was there any evidence of their decisions being influenced in an inappropriate manner. Measures have been taken in recent years to set in place an elaborate, but clearly workable, system for the appointment and discipline of holders of judicial office. A challenge ahead relates to the question of ensuring diversity in the judiciary. As the diversity policy is pursued, different perspectives may be brought into the system; the provision of training on shared values and ethical standards in the judiciary seems pertinent in such a context of change. The use of fee-paid deputy and temporary judges is the only criticism of any consequence that can be found in the system; this runs counter to the key principle of security of tenure.

6. Likewise, with regards to prosecutors, commendable efforts have been made to institutionalise the profession since 1985, to improve its efficiency and to safeguard its integrity and impartiality. In addition to the available mechanisms to support ethics in service (codes of conduct, whistleblowing policies, supervision by superiors, induction training and discipline regime when misconduct occur), more can be done to further develop regular training on ethics.

I. INTRODUCTION AND METHODOLOGY

7. The United Kingdom joined GRECO in 1999. Since its accession, the country has been subject to evaluation in the framework of GRECO's First (in September 2001), Second (in September 2004) and Third (in February 2008) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (<http://www.coe.int/greco>).

8. GRECO's current Fourth Evaluation Round, launched on 1 January 2012, deals with "Corruption Prevention in respect of Members of Parliament, Judges and Prosecutors". By choosing this topic, GRECO is breaking new ground and is underlining the multidisciplinary nature of its remit. At the same time, this theme has clear links with GRECO's previous work, notably its First Evaluation Round, which placed strong emphasis on the independence of the judiciary, the Second Evaluation Round, which examined, in particular, the executive branch of public administration, and the Third Evaluation Round, which focused on the incriminations of corruption (including in respect of parliamentarians, judges and prosecutors) and corruption prevention in the context of political financing.

9. Within the Fourth Evaluation Round, the same priority issues are addressed in respect of all persons/functions under review, namely:

- ethical principles, rules of conduct and conflicts of interest;
- prohibition or restriction of certain activities;
- declaration of assets, income, liabilities and interests;
- enforcement of the applicable rules;
- awareness.

10. As regards parliamentary assemblies, the evaluation focuses on members of national Parliaments, including all chambers of Parliament and regardless of whether the Members of Parliament are appointed or elected. Concerning the judiciary and other actors in the pre-judicial and judicial process, the evaluation focuses on prosecutors and on judges, both professional and lay judges, regardless of the type of court in which they sit, who are subject to national laws and regulations.

11. In preparation of the present report, GRECO used the responses to the Evaluation Questionnaire (Greco (2011) 4E) by the United Kingdom, as well as other data, including information received from civil society. In addition, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to the United Kingdom from 16 to 20 April 2012. The GET was composed of Mr Hugh GEOGHEGAN, Retired as Judge of Supreme Court (Ireland), Ms Jane LEY, Deputy Director, US Office of Government Ethics (United States of America), Mr José Manuel Igreja MARTINS MATOS, Judge, Vice-President of the Ibero-American Group of the International Association of Judges, Judge in courts in criminal, civil and labour matters (Portugal), and Ms Marja TUOKILA, Counsel to the Legal Affairs Committee, Parliament (Finland). The GET was supported by Mrs Laura SANZ-LEVIA and Mr Yuksel YILMAZ from GRECO's Secretariat.

12. The GET interviewed representatives and officials in the House of Commons (Committee on Standards and Privileges, Parliamentary Commissioner for Standards) and the House of Lords (Sub-Committee on Lords' Conduct, Commissioner for Standards), as well as in the devolved assemblies of Wales and Northern Ireland. Moreover, the GET held interviews with the Independent Parliamentary Standards Authority (IPSA), the Committee on Standards in Public Life and the UK Public Affairs Council (UKPAC). The GET also met with members of the judiciary and the prosecution service of England and Wales (Crown Prosecution Service – CPS), Scotland and Northern Ireland, as well as with representatives from the Judicial Appointments Commission (JAC), the Judicial Appointments Board for Scotland, the Judicial College and the Office

for Judicial Complaints. Finally, the GET spoke with representatives of Transparency International, academia and lobbyists (Chartered Institute of Public Relations, College of Public Policy, Trade Association Forum).

13. The main objective of the present report is to evaluate the effectiveness of measures adopted by the authorities of the United Kingdom in order to prevent corruption in respect of Members of Parliament, Judges and Prosecutors and to further their integrity in appearance and in reality. The report contains a critical analysis of the situation in the country, reflecting on the efforts made by the actors concerned and the results achieved, as well as identifying possible shortcomings and making recommendations for further improvement. In keeping with the practice of GRECO, the recommendations are addressed to the authorities of the United Kingdom, which are to determine the relevant institutions/bodies responsible for taking the requisite action. Within 18 months following the adoption of this report, the United Kingdom shall report back on the action taken in response to the recommendations contained therein.

II. CONTEXT

14. The public perception on the level of corruption in United Kingdom has historically been low. The United Kingdom has been listed among the least corrupt 20 countries on Transparency International's yearly corruption perception index (CPI) since 1995, the year it was first published. In line with Transparency International CPI, the levels of rule of law and control of corruption have been ranked at the higher ends of the World Bank governance indicators for almost a decade¹.

15. In terms of those groups of public servants who are the focus of the Fourth Evaluation Round of GRECO, Members of Parliament (and political parties) top the list of the least trusted institutions in the United Kingdom. A recent survey (Eurobarometer) issued by the European Commission² reveals that 58% of those Britons surveyed perceive that corruption is widespread among UK national politicians. The same survey shows that 38% of Britons are of the view that UK politicians are not doing enough to fight corruption. The Eurobarometer survey must be contrasted with a 2011 research carried out by the Committee on Standards in Public Life, in which 67% of those surveyed thought MPs would not take bribes, and 36% thought that MPs would not abuse their power for their own personal gain. The same research shows that only 26% would generally trust MPs to tell the truth (versus a 40% level of trust in the case of citizens believing that their local MP would tell the truth and an 80% level of trust in the case of citizens believing that judges would tell the truth)³. Transparency International signals in its National Integrity System report on the United Kingdom a substantial gap between the rules regulating the integrity of politicians on paper and their impact in practice⁴.

16. In so far as members of the judiciary are concerned, the perceived level of corruption of judges is lower than the average levels of that within the EU 27. The Eurobarometer mentioned above reveals that only 21% of those Britons surveyed think that corruption is widespread among members of the judiciary (EU AVG 32%). Likewise, a national opinion survey published by the national chapter of Transparency International in the United Kingdom, shows that the judiciary ranks as one of the least corrupt institutions (13th out of 16) with only 19.3% of respondents judging it to be corrupt. Prosecutors also enjoy a high level of trust among citizens in the United Kingdom.

¹ http://info.worldbank.org/governance/wqi/sc_country.asp

² Special Eurobarometer 374: Attitudes of Europeans towards Corruption, February 2012.

³ http://www.public-standards.gov.uk/Library/CSPL_survey_Final_web_version.pdf

⁴ National Integrity System Assessment on the United Kingdom. Transparency International (2011).

III. CORRUPTION PREVENTION IN RESPECT OF MEMBERS OF PARLIAMENT

Overview of the parliamentary system

17. The UK legislature, based in and often referred to as Westminster, is comprised of two chambers, the House of Commons and the House of Lords. Members of each House are generally referred to as MPs (for Members of Parliament in the House of Commons) and Lords (Members of the House of Lords). The House of Commons has 650 members who are directly elected via the first-past-the post system in their individual constituencies. The House of Lords has around 800 Members who are generally appointed for life. This includes 92 "excepted" peers whose membership is connected to holding a hereditary peerage and 26 Bishops (currently holders of senior office in the established Church of England)⁵.

18. The UK has a devolved system of Government. Since the late 1990s, three parts of the UK have had administrations with devolved powers, which are each accountable to legislatures with limited powers: the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. The devolved Parliament/Assemblies are all unicameral, elected through direct suffrage, and composed of 129 members (Scottish Parliament), 60 members (Welsh Assembly) and 108 members (Northern Ireland Assembly), respectively. Devolved powers are decisions controlled by the devolved Parliament/Assemblies, e.g. regarding education or health. Reserved powers are those decisions that remain with Parliament in Westminster.

Transparency of the legislative process

19. Detailed rules and procedures are in place to ensure access to information on legislation in draft form for comment/after introduction in Parliament. In particular, draft laws proposed by the Government are often published for public consultation before being formally introduced to Parliament. All draft laws are made publicly available on the Parliament website once they are formally introduced. There is a parliamentary process of pre-legislative scrutiny, where a parliamentary select committee takes evidence and reports on draft proposals. Public consultations may be organised; consultation documents (i.e. "Green Papers" and "White Papers")⁶ are published by the Government as part of the public consultation processes.

20. The composition of parliamentary committees is a matter of public record. Legislative committees sit in public and a transcript of their work is published thereafter. Select committees examine public policy; their responsibilities consist primarily in the taking of evidence and the cross-examination of witnesses, and the publication of reports. Written submissions/evidence are also generally published. Oral evidence sessions and cross-examination of witnesses are generally open to the public and are

⁵ At the time of the on-site visit, the GET was informed of plans underway to provide for a reformed House of Lords of 450 members; 80% would be elected by proportional representation and 20% appointed by an independent statutory appointments commission. On 27 June 2012, the Government introduced the House of Lords Reform Bill in the House of Commons. The Deputy Prime Minister announced on 6 August 2012 that the Government does not intend to proceed with the House of Lords Reform Bill in this Parliament. Despite the House of Commons voting to give the Bill a Second Reading on 10 July 2012 by an overwhelming majority, the Government does not have the majority it needs in the House of Commons to secure a timetable motion. Without this, the Bill cannot make progress without consuming an unacceptable amount of parliamentary time.

⁶ Often when a government department is considering introducing a new law or a change in policy, it will put together a discussion document called a Green Paper. The aim of this document is to allow people both inside and outside Parliament to debate the subject and give the department feedback on its suggestions. White papers are documents produced by the Government setting out details of future policy on a particular subject. A White Paper will often be the basis for a Bill to be put before Parliament. The White Paper allows the Government an opportunity to gather feedback before it formally presents the policies as a Bill. Copies of consultation documents such as Green Papers and White Papers which are produced by the Government are available on the related departmental websites.

broadcast on television or webcast. The results of the committees' work are public and may require a response from the Government.

21. Parliamentary debates are open to the public and are broadcast on television and the internet; verbatim records (normally referred to as "Hansard") are subsequently published online and are also available on paper version. The results of parliamentary votes are announced live, and so are disclosed immediately to members of the public present in the relevant sitting, and are broadcast. A list of how each member voted – for and against a motion – is included in full in the records of debates published online.

Remuneration and economic benefits

22. The average gross annual salary in the United Kingdom is £24,128 (30,178 EUR) as of January 2012⁷.

23. As per the remuneration and economic benefits of parliamentarians in the United Kingdom, the following applies:

- Members of the House of Commons, who do not have standard working hours, receive a (i) basic gross annual salary, which, for the financial year 2011-2012, amounts to £65,738 (82,220 EUR). Members who serve as Committee Chairmen receive an additional amount of up to £14,582 (18,240 EUR) gross per annum; (ii) and a pension. In addition, Members of the House of Commons are entitled to claim expenses and costs related to the performance of their parliamentary functions, notably, (iii) accommodation expenditure amounting to £20,000 (25,560 EUR) in London or varying amounts between £10,050 (12,850 EUR) and £15,150 (19,360 EUR) elsewhere in the country. Members with eligible dependants may claim an additional £2,425 (3,033 EUR) per dependant. Members who are ineligible for accommodation expenditure or choose not to claim it, receive £3,760 (4,700 EUR) or £5,090 (6,370 EUR) on top of their gross salary, depending on the location of their constituency; (iv) office expenditure of up to £24,750 (31,630 EUR) in London or £22,200 (28,370 EUR) elsewhere in the country. This budget is provided for the cost of running and equipping an office in the Member's constituency. Newly elected Members receive £6,000 (7,500 EUR) for the cost of starting up their office; (v) staffing costs, including salaries amounting up to £137,200 (175,350 EUR) outside London and £144,000 (184,000 EUR) within London; (vi) travel and subsistence allowance consisting of an uncapped amount for actual expenditure incurred; (vii) additional budgets are also available for Members who incur costs in the performance of their parliamentary functions relating to disability or security needs; and finally, (viii) winding up expenditure for Members leaving Parliament who can claim up to £56,250 (71,900 EUR) in London or £53,150 (67,930 EUR) outside of London for the cost of completing their outstanding parliamentary functions.
- Members of the House of Lords generally do not receive a salary⁸ for their parliamentary duties but are entitled to (i) a flat rate allowance of £150 (190 EUR) or £300 (375 EUR) which can cover for example subsistence and secretariat; and, within certain limits, (ii) the travel expenses they incur in fulfilling their parliamentary duties.

⁷ Data from Labour Market Statistics, January 2012; annual figure derived from the average weekly earnings across the whole economy in November 2011, the latest month available. <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/january-2012/statistical-bulletin.html>

⁸ A small number of Members of the House of Lords are salaried by virtue of the office they hold, e.g. Ministers and the Lord Speaker.

- Members of the Scottish Parliament receive an annual salary of £57,520 (71,940 EUR), frozen until 2013, and participate in a parliamentary pension scheme. Members also receive financial support under the Reimbursement of Members' Expenses Scheme, which covers Members for specific outlays incurred in carrying out their parliamentary duties. The Scheme covers staff costs, Edinburgh accommodation costs, travel costs and office costs, all of which are capped. All Members' expenses claims are published on the Scottish Parliament website
- Members of the Welsh Assembly receive an annual salary of £53,852 (67,355 EUR) – which is subject to a pay-freeze until 2015 – and are covered by a pension scheme. Additional financial support is provided in the form of allowances which cover staff costs, office costs (up to £16,242, i.e. 20,315 EUR), travel and property renting in Cardiff (up to £8,400, i.e. 10,506 EUR, per annum excluding the cost of utilities and some other related costs).
- Members of the Northern Ireland Assembly are paid an annual salary which, for the financial year 2012-2013, amounts to £43,101 (53,900 EUR)⁹; they also receive pension benefits and if eligible, child care allowance. Additional financial support is provided to Members in the form of allowances, which may cover travel and subsistence costs, constituency office running costs, administration costs and support staff costs (including redundancy and staff travel costs). The current levels of salary and financial support are determined by the Independent Financial Review

24. In 2009, allegations of the abuse of allowances by Members of the House of Commons (MPs) gave rise to a crisis of public confidence in the integrity of parliamentarians. Criminal investigations were launched into the conduct of ten MPs: five were charged and four have been convicted and served time in prison; and about 20 MPs were censured. Many demands for repayment were overturned on appeal. Questions regarding allowances broadened to the Lords resulting in two peers being charged and convicted of false accounting (both served prison sentences) and three others suspended and ordered to repay expenses wrongly claimed.

25. The misuse for personal gain of the expenses regime prior to 2010, intended simply to reimburse MPs for the additional costs necessarily incurred in performing parliamentary duties, led to the introduction of more robust institutional audit arrangements. Notably, in 2009, the Independent Parliamentary Standards Authority (IPSA) was established and made its first Scheme for MPs' Expenses and Costs in May 2010, with its Fourth Scheme (now MPs' Scheme of Business Costs and Expenses) being issued in April 2012.

26. IPSA is a statutory body, independent of Parliament and Government, which oversees and controls MPs' business costs and expenses. The budgets provided by IPSA are paid entirely out of public funds. All claims made under the MPs' Scheme of Business Costs and Expenses must be accompanied by receipts or other proof of expenditure. Claims are validated by IPSA and are not paid if they are not within the rules or are not accompanied by the appropriate proof of expenditure. Each claim is then published, including those which are not reimbursed.

⁹ The salary of Members of the Northern Ireland Assembly is due to rise to £48,000 (61,350 EUR) from April 2013.

27. A number of people with whom the GET spoke stated they felt the politically difficult issue of not raising salaries led to the controversy of the expenses. In that same vein, the Committee on Standards in Public Life¹⁰ in its dedicated Report on MPs' Expenses and Allowances, reflected on the fact that the situation could have been caused by the unwillingness of successive governments to contemplate increases in MPs pay, thereby creating a sense of grievance and justification for the misuse of the expenses system to substitute for higher salaries¹¹.

28. The GET notes that IPSA is getting ready to look at the issue of salaries and pensions, a responsibility it was entrusted with in 2010 as a measure to restore public trust in Parliament through the independent determination and administration of these matters. In this connection, IPSA indicated that it intended to organise an on-line debate, by spring 2013, to increase trust in parliamentarians by reflecting on public expectations and reaching a fair balance between giving MPs adequate resources to do their jobs (which are vital for a vibrant democracy) and providing value for money for the taxpayer.

Ethical principles and rules of conduct

29. Although Parliamentary resolutions in England relating to issues of conduct date back to as early as 1695, the House of Commons Code of Conduct, drafted by the Standards and Privileges Select Committee, was first adopted in July 1996. The House of Lords Code of Conduct, drawn up by a Committee of the House of Lords, was first adopted in July 2001. The Codes of Conduct of both Houses are supplemented by detailed guidance, i.e. the Guide to the Rules relating to the conduct of Members in the House of Commons and the Guide to the Code of Conduct in the House of Lords. The codes and the guides are reviewed regularly. The latest edition of the Code and the Guide was published in 2012 and for the House of Lords in November 2011. A public consultation process to review in full the House of Commons Guide to the Rules ended in April 2012; the review is on-going¹².

30. The aforementioned Codes encapsulate the seven principles on conduct in public life – so-called Nolan principles – identified by the Committee on Standards in Public Life, namely: “selflessness”, “integrity”, “objectivity”, “accountability”, “openness”, “honesty” and “leadership”.

31. Besides those principles, the Code of Conduct of the House of Commons contains eight additional rules related to conduct, notably, about avoiding conflicts of interest; using confidential information only in connection to official duties; conscientiously fulfilling the requirements for registration of interests and declaring any relevant interests during proceedings; using publicly financed resources, facilities and services; and more specifically, rules prohibiting MPs from acting as a paid advocate in any proceeding of the House and not accepting a bribe, or a fee, compensation or reward which may influence parliamentary conduct.

32. The Code of Conduct for the House of Lords notes at the outset that Members of the House of Lords are not office holders and service as a Lord does not constitute employment with few exceptions; most Members of the House of Lords are unsalaried, and so many Members are part-time parliamentarians whose primary source of earned income is or has been for activities outside the Parliament. They also do not represent a

¹⁰ The Committee for Standards in Public Life is an independent public body which advises Government on ethical standards across the whole of public life in the UK.

¹¹ Report on MPs Expenses and Allowances. Supporting Parliament, Safeguarding the Taxpayer. Committee on Standards in Public Life, November 2009.

¹² The Guide to the Code of Conduct of the House of Commons was first produced in 1996. Since then, it has developed largely piecemeal, being added to and revised to deal with particular circumstances as they have arisen. The consultation paper on the ongoing review of the Guide is available at <http://www.parliament.uk/documents/pcfs/review-of-guide-to-the-rules/Consultation-on-Guide-to-the-Rules.pdf>

constituency. Consequently, the Code is intended to reflect this different public service role and reality. While the Code of the Lords also contains the Nolan principles, it specifically notes that no complaints will be accepted alleging only a violation of a Nolan principle, but the Nolan principles will be taken into consideration when investigating an alleged breach of another provision of the Code. The other provisions within the Code include a general rule on openness and accountability and specific rules on registering relevant interests, declaring relevant interests in communications or debate/discussions (with a fuller discussion of what constitutes a relevant interest) and acting in accordance with the rules on use of facilities and financial support provided to Lords. Further rules are laid out with regard to financial incentives or reward for exercising parliamentary influence.

33. What appears to be missing from each of the Codes and/or the respective guidance is a clear statement that Members are responsible for the conduct of their personal staff when those individuals are carrying out official duties on behalf of the Member (in effect acting as the Member's agent). The GET understood that these staff members are not subject to any other code of conduct, but some of them are required to declare relevant interests in the House of Commons Register of Interests of Members' Secretaries and Research Assistants and the Register of Lords' Staff Interests. Complaints over a failure of a Member's staff to register can be investigated by the respective Commissioners. The GET was informed of instances in the past where MPs had been held responsible for the actions of their staff (e.g. breaches of confidentiality rules, campaigning in elections, etc.), but the authorities indicated that the accountability mechanism applied to Members' staff depended on the circumstances in the absence of a clear rule in this respect. Since many of the staff are paid from public funds¹³ and supervised by the Member when carrying out official duties on his/her behalf, the GET believes that a clear and effective system of accountability for staff actions is also of key importance to the actual and perceived integrity of Parliament. In this context, the GET welcomes the fact that the Scottish Parliament Code of Conduct already sets out member's accountability for staff¹⁴. **GRECO recommends that, pending any introduction of an accountability system for staff conduct, it should be made clear that Members of the House of Commons and Members of the House of Lords can be responsible for the conduct of their staff when carrying out official duties on behalf of the Member and that, unless otherwise specified, the conduct of the staff should be judged against the standards expected of the Members. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.**

34. Enforcement mechanisms of the relevant ethical rules are in place and each House has appointed a Commissioner to investigate complaints of misconduct. Each Commissioner then reports to a specific Committee within each House and that Committee makes determinations and recommendations to the full body if sanctions are deemed appropriate and reports to the full body about other ameliorative steps that have already been taken (for details, see paragraphs 56 to 60). All areas of misconduct in carrying out parliamentary duties, and not simply failure to register or declare financial interests, can become breaches of the Code. In the case of the House of the Lords, the Code does not extend to Members' performance of duties unrelated to parliamentary proceedings (for example, duties in connection with their profession) or to Members' private lives. In the case of the House of Commons, the Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of

¹³ Members of the House of Lords are given no specific allowance to pay for staff, although they can use the allowance they are given to do so.

¹⁴ Code of Conduct of Parliament of Scotland, paragraph 7.6 on Awareness of MSPs' staff:

7.6.1 Members will be held responsible for the behaviour of their staff within the Parliamentary complex and in their dealings with other members, other members' staff, and Parliamentary staff.

7.6.2 Members should be responsible for ensuring that their staff are fully aware of and understand such policies, rules and requirements that apply to the conduct of personnel on the SPCC's premises.

their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally. The Commons Commissioner may not investigate a specific matter which is considered to cause significant damage to the reputation and integrity of the House which relates only to the conduct of a Member in their private and personal lives. The Committee on Standards and Privileges has power to consider any matters relating to the conduct of members, and could consider cases where it considered personal conduct caused significant damage to the reputation and integrity of the House.

35. The aforementioned ethical rules are largely replicated in the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly, each of which has its own Code of Conduct. As regards the operation of the enforcement machinery in the devolved institutions, they all have dedicated Commissioners and Committees, but there is a notable difference as compared to the Westminster system: in Scotland, Wales and Northern Ireland, breaches in respect of registration and declaration of interests, along with paid advocacy, are criminal offences.

Conflicts of interest and disclosure requirements

36. Potential conflicts of interest for Members of Parliament are addressed by the Codes of Conduct pertaining to each House. The Codes focus on the official conduct of Members rather than on limitations on their private interests and activities which may give rise to the question of conflicts. The Codes state that Members should base their conduct on consideration of the public interest, and resolve any conflict between their personal interest and the public interest at once, and in favour of the public interest. In addition, there is some specific guidance on certain actions, for example on standing aside from a Select Committee inquiry if the Member has a direct financial interest, and using parliamentary resources for other than parliamentary work. There are very few restrictions on the outside remunerated occupations/activities/interests a Member may have. There is an outright ban in both Houses on paid advocacy and there are certain other official positions that a Member of the House of Commons is prohibited from holding (see also paragraph 47).

37. Both the House of Lords and the House of Commons primarily address conflicts of interest by favouring transparency of Members' interests and activities over regulation of their non-parliamentary actions. They do so through the institution of a registration system requiring the written, publicly available disclosure of certain types of financial and other interests coupled with an additional requirement of oral declarations in the course of parliamentary proceedings (and on the public record of the proceeding), or in any communication with Ministers, Government departments, or public officials/public office holders.

38. It is notable that those who are candidates for seats in the House of Commons, if not already incumbents, are not required to declare all the interests that would be reportable if elected¹⁵. Thus those who elect them are not able to judge the particular outside interests that the individual candidate may bring to office if successful. This state of affairs merits some further reflection by the authorities.

Registration of assets, income, liabilities and interests

39. As noted above, Members of both Houses are responsible for making a full disclosure of their interests that may be related to their parliamentary duties. In particular, they are responsible for completing a registration form and submitting it to

¹⁵ Guidance for candidates to voluntarily declare their interests was published before the last parliamentary general election in 2010. Decisions have not yet been taken on whether to repeat the exercise for future elections.

the Registrar of Members' Financial Interests (House of Commons) and the Registrar of Lords' Interests (House of Lords), respectively, within one month of taking their seats. Thereafter it is the responsibility of Members to keep their entries up-to-date and to report any change in their registrable interests within four weeks of the change occurring. In each House there is a Registrar available to answer Members' questions about registrable interests.

40. The main purpose of the Register is to give public notification on a continuous basis of those financial interests/material benefits held by Members which might be thought to influence their parliamentary conduct or actions. The twelve categories of financial interests that require registration are set forth in guidance for both Houses (Table 1) and extend to family members, as applicable (Table 2). Certain categories of financial interests are still subject to threshold values before triggering registration (see also Table 3). For example, there are no limitations on the number or value of company shares, bonds and notes which can be held by Members of Parliament as long as they are reported when their value reaches a certain threshold.

Table 1-Categories of Registrable Interests

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly	Scottish Parliament
Directorships	✓	✓	✓	✓	✓
Remunerated employment/ Remuneration received from companies tendering for/ providing services to the assembly	✓	✓	✓	✓	✓
Clients	✓	✓	✓	✓	
Sponsorships	✓	✓	✓	✓ ¹⁶	
Gifts, benefits and hospitality	✓	✓	✓	✓	✓
Overseas visits	✓	✓	✓	✓	✓
Overseas benefits and gifts	✓	✓		✓	
Land and property	✓	✓	✓ ¹⁷	✓	✓ ¹⁸
Shareholdings	✓	✓	✓	✓	✓
Controlled transactions (loans and credit arrangements)	✓	✓		✓ ¹⁹	
Miscellaneous (any relevant interests, not falling within one of the above categories)	✓	✓		✓	
Family members employed through parliamentary expenses	✓		✓	✓ ²⁰	✓ ²¹
Paid or unpaid membership to body funded by the assembly ²²			✓		
Elected/public office				✓	

¹⁶ This category is headed as "electoral support and political donations".

¹⁷ There is an exemption from registration for land and property used for the personal residential purposes of the Member, Member's spouse or dependent children.

¹⁸ This category is headed as "heritable property".

¹⁹ These details shall be registered under the category of "electoral support and political donations."

²⁰ In Northern Ireland, this category applies not just to those family members who are employed through the Assembly's Office Cost Expenditure but also to those who benefit in any way (e.g. those who are paid for the provision of any good or service).

²¹ The Scottish Parliamentary Corporate Body decided in 2011 that no new arrangements regarding family members could be entered into, but that existing arrangements could continue until the next Scottish Parliament election, at that time scheduled for 2015. Thereafter, there would be no employment of family members. Any existing arrangements must be declared in the public register set up for that purpose.

²² Please note that these can be registered under either "Miscellaneous" or "Non-financial interest" categories in other assemblies.

Non-financial interests (e.g. unremunerated directorships, membership of public bodies such as hospital trusts, acting as office-holder or trustee in pressure group, trade union, NGO, etc.)		✓	✓	✓	
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Table 2-Categories of Interests of Relatives requiring registration

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly ²³	Scottish Parliament
Directorships			Spouse or dependent children		
Remunerated employment			Spouse or dependent children		
Clients			Spouse or dependent children		
Gifts, benefits and Hospitality	Spouse and any other person with or on behalf of themselves	Spouse	Spouse or dependent children	Spouse	
Overseas visits	Spouse	Spouse	Spouse or dependent children	Spouse or dependent children	
Overseas benefits and gifts	Spouse and any other person with or on behalf of themselves	Spouse		Spouse or dependent children	
Land and Property	Spouse	Spouse	Spouse or dependent children	Jointly owned ²⁴	
Shareholdings	Held with or on behalf of spouse, partner or dependent children	Held with or on behalf of the members' Spouse or dependent children	Spouse or dependent children	Held with or on behalf of the members' spouse or dependent children	
Paid or Unpaid Membership to body funded by the assembly			Spouse or dependent children		
Remuneration received from companies tendering for providing service to the assembly			Spouse or dependent children		

* Note: spouse is also understood as partner of a Member.

²³It is only those gifts, benefits or hospitality (including visits) received by the spouse/or dependent children of the Member, which relate to the Member's membership of the Assembly or political activity.

²⁴ There is an exemption for land and property used for residential purposes by the Member, Member's spouse or dependent children.

Table 3-Registration Thresholds

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly	Scottish Parliament
Annual salaries as of 1 January 2012 ²⁵	£65,738		£53,852	£43,101	£57,520
Directorships	Over 0.1% of salary (£66) ²⁶	All		0.5 % of salary (£215.5)	1 % of salary (£575.2)
Remunerated employment	Over 0.1% of salary (£66)	Over £1,000 per annum		0.5 % of salary (£215.5)	1 % of salary (£575.2)
Sponsorships	Over £1,500. in donations of over £500	£500	Exceeding 25% of the candidate's total election expenses	£1,000	
Gifts, benefits and Hospitality	Over 1 % of salary (£660)	£500	0.5 % of salary (£269.26)	0.5 % of salary (£215.5)	1 % of salary (£575.2)
Overseas visits	Over 1 % of salary (£660)	£500		0.5 % of salary (£215.5)	
Overseas benefits and gifts	Over 1 % of salary (£660)			0.5 % of salary (£215.5)	
Land and Property	Value greater than the current parliamentary salary (£66,000) or Income greater than 10 % of the current parliamentary salary (£6,600)	Has a capital value of more than £250,000- from which an income of more than £5,000 a year is derived	Value greater than the current parliamentary salary (£53,852) or Income greater than 10 % of the current parliamentary salary (£5,385.2)	Value greater than the current parliamentary salary (£43,101) or Income greater than 10 % of the current parliamentary salary (£4,310)	50 % of salary (£28,760)
Shareholdings	Greater than the 15 % of the issued share capital of the company or 15% or less of the issued capital, but greater than the current parliamentary salary (£66,000)	Amounting to a controlling interest or not amounting to a controlling interest but exceeding £50,000 in value	With a market value less than 1 % of the issued share capital where the value of those shareholdings exceed 50% of the basic gross annual salary (£26,926)	The nominal value of the shares is greater than 1 % of the total nominal value of the issued share capital or the market value or the shares exceeds 50 % the current salary of an assembly member (£21,550)	The nominal value of the shares is greater than 1 % of the total nominal value of the issued share capital or the market value of the shares exceeds 50 % (£28,760) the current salary of an assembly member
Controlled Transactions	Loans over £1,500	Loans over £500 (on terms not generally available to members of the public)			

²⁵ All figures in parenthesis are calculated on the basis of annual salary levels in 2012.

²⁶ Payments of £66 or less become registrable if in that calendar year the Member receives over 1% of the parliamentary salary (£660) from a single source. As per Resolution of 30 April 2009, amended on 7 February 2011 (<http://www.publications.parliament.uk/pa/cm201011/cmvote/vp110207.pdf>).

Category	House of Commons	House of Lords	National Assembly for Wales	Northern Ireland Assembly	Scottish Parliament
Miscellaneous		£500			
Family members employed through parliamentary allowances ²⁷	1 % of salary (£660)			0.5 % of salary (£215.5)	
Elected/Public Office				0.5 % of salary (£215.5)	

41. In the GET's view, the thresholds for reporting financial holdings are high. For example, an MP could have an investment of £60,000 (approximately 76,000 EUR) in each of 10 mobile phone service providers and none would appear on his or her registration statement under the category of shareholdings. The authorities argue that in spite of the thresholds for reporting financial holdings the Member would be expected, firstly, to abide by the general obligation upon Members to keep the overall definition of the Register's purpose (openness) in mind when registering their interests; if certain interests do not fall clearly into one of the specified categories, Members are nevertheless expected to register such interests under "miscellaneous". In addition, the Member would be required to declare an interest in the industry before engaging in parliamentary activities affecting mobile phone service providers according to the rules on declaration. That however, would give the public little or no notice of the interest before the Member acted and the purpose of the Registers is to give public notice of those interests which might be thought to influence a Member's conduct. The GET takes account of these arguments, but is not fully convinced that these are sufficient, and efficient, safeguards for openness and transparency of a Member's financial interests, not only in theory, but also in practice. The GET notes that the high threshold for reporting these types of interests (as opposed to remunerated services) reflects a policy priority on registering interests where actual payments are involved (earned income, lobbying for a fee, and expenses), rather than investments. However, the GET is of the view that a Member may be more influenced by the effect of a matter on his/her stocks than by the receipt of a payment for a speech. **GRECO recommends that consideration be given to lowering the thresholds for reporting financial holdings (such as stocks and shares). The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.**

42. The GET did not come across evidence suggesting any general or systemic difficulties in adherence to the rules on the registration of financial interests in the devolved institutions of Scotland, Wales and Northern Ireland. The rules on the registration of non-financial interests (e.g. membership of professional bodies, trade unions and other organisations) differ: provision has been made in Wales and Northern Ireland to register a range of non-financial interests; Scotland has the least onerous requirements with respect to non-financial interests which, as in Westminster, are only subject to voluntary registration (for a comparative overview of registration requirements, see also the tables included above). Another notable difference, as compared to the system in Westminster, is that the responsible Commissioners in the devolved institutions do not have any role with respect to the creation and maintenance of the respective register of interests.

²⁷ The requirement to register family members applies not just to those family members who are employed through the Assembly's Office Cost Expenditure but also to those who benefit in any way (e.g. those who are paid for the provision of any good or service). They are also registered with IPSA.

Prohibition or restriction of certain activities

Gifts

43. Members of both Houses are not prohibited or restricted with respect to receiving gifts. As with financial interests, the House of Commons and, to a certain extent the House of Lords, have opted for transparency of accepted gifts rather than imposing restrictions as a way of dealing with actual or apparent conflicts of interest that can arise from the receipt of gifts.

44. The House of Commons prohibits the acceptance of a bribe which could influence the conduct of a Member, including any fee compensation or reward in connection with the promotion of, or opposition to, any bill, motion, or other matter submitted or intended to be submitted to the House or to any Committee of the House (so-called paid advocacy). The House of Lords rules are less specific and prohibit Members from accepting or agreeing to accept any financial inducement as an incentive or reward for exercising parliamentary influence, or seeking to profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services.

45. In reading the provisions of the respective Codes and their accompanying guidance, the GET found very little by way of advice or counselling to Members as to their expected conduct when receiving gifts. In this connection, the GET notes that there is no general ban on Members accepting gifts similar to that applicable to UK Ministers, civil servants or judges where it is acknowledged that the receipt of a gift might be seen to compromise personal judgement or integrity. In the GET's view, it would be helpful if a clearer line would be drawn and explained to Members and the general public on such issues as, for example what can be considered an acceptable gift (e.g. what constitutes ordinary hospitality), the relationship between a benefit and paid advocacy etc.

46. Only gifts exceeding a threshold value are required to be registered: in the House of Commons, the threshold is fixed at 1% of the current parliamentary salary (in 2012, this 1% would be equal, on average, to £660, i.e. 850 EUR); in the House of Lords, the threshold is set at over £500 (approximately 600 EUR). By way of contrast, the threshold for Ministers reporting gifts is £140 (180 EUR). Again, the GET notes that particularly when favoring transparency over restriction, the thresholds for reporting gifts are set rather high in the House of Commons and the House of Lords. The same concern of high reporting thresholds is applicable to the Parliament of Scotland where the threshold is £575 (710 EUR); lower thresholds are set in Wales, i.e. £270 (330 EUR) and in Northern Ireland, i.e. £215 (265 EUR). This state of affairs is particularly worrying because, as noted above, there are no restrictions on the acceptance of gifts without regard to whether they are required to be registered. **GRECO recommends (i) providing clearer guidance for Members of the House of Commons and the House of Lords concerning the acceptance of gifts, and (ii) that consideration be paid to lowering the current thresholds for registering accepted gifts. The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.**

Incompatibilities

47. Persons are disqualified from Membership of the House of Commons if they hold one or more of the offices listed in the House of Commons Disqualification Act 1975. The first article of this Act requires disqualification of a Member of House of Commons who:

- is a Lord Spiritual;
- holds any of the judicial offices specified in Part I of Schedule 1 to the Act;

- is employed in the civil service of the Crown, whether in an established capacity or not, and whether for the whole or part of his time;
- is a member of any of the regular armed forces of the Crown ;
- is a member of any police force maintained by a police authority;
- is a member of the legislature of any country or territory outside the Commonwealth other than Ireland;
- holds any office described in Part II or Part III of Schedule 1 (e.g. Local Government Commissions, Judicial or Law Commissions or certain regulatory bodies).

48. Outside the aforementioned exceptions, parliamentarians can engage in additional activities as long as they comply with the applicable registration requirements.

Ban on paid advocacy

49. Members of both Houses are prohibited from acting as paid advocates in parliamentary proceedings and thereby influencing such proceedings in a manner that may result in a personal benefit or a benefit for an organisation in which they hold a financial stake or receive compensation. The current formulation prevents a Member from lobbying for the “exclusive benefit” of an outside body (or individual) from which the Member has received, is receiving, or expects to receive a financial benefit. This “exclusive benefit” limitation is said to be appropriate in order not to overly restrict Members from gaining or maintaining experience from outside employment; this experience can inform parliamentary debates and proceedings as long as Members do not act in a way that benefits only their employer. As part of the on-going revision of the Guide to the Code of Conduct of the House of Commons, the Commissioner has raised a series of questions for comment with regard to the rules on lobbying for compensation, in part to test the views on whether the current rules and their interpretations now too freely allow members to speak on matters informed by their outside financial interests. The rule on lobbying for reward or consideration also prohibits Members from urging any other Member to lobby for that benefit. This rule applies to Members in parliamentary proceedings and when making any approach to Ministers or public officials.

50. In reading the Guide to the Rules relating to the conduct of Members of the House of Commons, it is stated that it is not the role of the Speaker to enforce the ban on lobbying for reward during speeches or by failing to call on a Member. In the past, the Speaker has declined to receive points of order with regard to registration or lobbying. This raises concerns as intentional misconduct by a Member to gain a specific result will not be checked even if known. There is no process available to stop an immediate, on-going violation during parliamentary proceedings regardless of how widely recognised it is. The authorities rightly note, however, that the issue can be raised by another Member so all in attendance and later, the public through the record of proceedings, will know. There are certainly legitimate arguments supporting the difficulty and the advisability of one Member inhibiting another Member from engaging in apparently prohibited parliamentary activity during the conduct of a committee hearing or debate, but a reasonable balance could be achieved by ensuring that the penalties or sanctions for a Member who knowingly engaged in prohibited conduct have some real significance. The GET urges the authorities to specifically deal with this matter when reviewing the current sanctioning regime, as per recommendation v (paragraph 73).

51. In addition, the Commissioner’s public consultation on the review of the Guide to the Rules relating to the conduct of Members of the House of Commons raised the issue of paid advocacy by former Members of Parliament, a matter of current public interest which remains unregulated; questions were posed as to what restrictions, if any, should apply to the lobbying activities and benefits of former Members. In this connection, under the present rules, once MPs have left the House, there is nothing to prevent them using

the contacts which they developed as Members to lobby Ministers or public officials. The paper also identifies the concern that the holding of a parliamentary pass (a benefit which is available upon request to many former Members) might give or be perceived to give the former Member unfair access at least to current decision makers. Former MPs are also not subject to restraints comparable to those placed on former Ministers. In particular, under the Ministerial Code, former Ministers are prohibited from lobbying Government for two years after leaving office. They are also required to seek and abide by advice from the Independent Advisory Committee on Business Appointments (ACOBA) about any appointments or employment they wish to take up within two years of leaving office. Senior civil servants must also seek advice of ACOBA for outside appointments within two years of leaving public office.

Contacts with third parties

52. The codes of conduct for MPs and Lords do not directly address issues that can arise from their interactions with lobbyists or those who engage in similar informational or persuasive activities. Members can at least know who is a paid lobbyist, by reference to a voluntary register of lobbyists published by the UK Public Affairs Council (UKPAC). Data collected on the register includes contact information, employer details and, where applicable, clients for whom public affairs services are provided. Lobbying associations themselves have developed their own codes of conduct to which their members must abide; the relevant codes of conduct are a contractual term of employment. The GET was informed that the Government is now proceeding with consideration of a Bill that would establish a statutory register of lobbyists. The Bill is not without its critics. Concerns range from the perceived limited value of the information to be disclosed and the disparate treatment between the professional lobbyist and those who might provide targeted information and attempt to sway public policy on behalf of specific interests but who do so from such positions as that of a corporate board member, in-house lobbyist, trade union representative or representative of a charity. Moreover, while the proposal would apply to all jurisdictions insofar as lobbying of central Government/Westminster is concerned (so a lobbyist based in Wales lobbying Westminster would be captured), it would not apply to lobbying of the devolved assemblies/parliament themselves. That said, it is to be noted that the Code of Conduct of the Scottish Parliament does already include guidance on access to Members of the Scottish Parliament and contacts with lobbyists (Code of Conduct, Volume 2, paragraph 5.1 and Volume 3, section 5).

53. While having information from a registry can certainly be helpful, the focus of this Fourth Evaluation Round is on the standards applicable to Members of Parliament, not those who lobby them. Lobbying involves the actions of both the person who lobbies and the public official who is lobbied. For the process to be properly beneficial, both sides of the process need to act appropriately with regard to one another. Therefore, regardless of the outcome of the aforementioned legislative proposal on a statutory register of lobbyists, **GRECO recommends that the Codes of Conduct and the guidance for both the Commons and the Lords be reviewed in order to ensure that the Members of both Houses (and their staff) have appropriate standards/guidance for dealing with lobbyists and others whose intent is to sway public policy on behalf of specific interests. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation.**

Misuse of confidential information

54. Information which Members of the House of Commons/House of Lords receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and never for the purpose of financial gain (i.e. the financial benefit of confidential information must not go to the Member, family or connected parties).

Misuse of public resources

55. Rules are in place to prevent official resources from being misused for either private or political gain. With respect to parliamentary allowances, expenses or facilities, all expenditure must be documented through receipts and invoices. Oversight of the allowances and reimbursements for the House of Commons is now the responsibility of an independent oversight body (see paragraphs 25 and 26).

Supervision and enforcement

56. In the House of Commons, the Parliamentary Commissioner for Standards receives and investigates complaints about MPs who are alleged to be in breach of the Code of Conduct. The Parliamentary Commissioner for Standards is an independent office holder who is appointed, through open recruitment, for a five year non-renewable term. The Commissioner can be dismissed only if unfit or unable to carry out his/her duties. The Commissioner publishes an annual report on the work of his or her Office. The results of all the Commissioner's investigations, together with the relevant evidence, are also published. Statistics about complaints work, identifying Members under inquiry, are published each month.

57. Most of the Commissioner's investigations are triggered by a complaint, but the Commissioner can now also investigate any matter that comes to his/her attention in any other way (e.g. through a press article). If the complaint falls within the remit of the Commissioner and there appears to be a breach of the Code of Conduct, the Commissioner undertakes an inquiry. During the course of the inquiry, the MP in question is asked to respond to the Commissioner and to make representations on his or her own behalf. At the end of the inquiry the Commissioner decides whether he or she upholds the complaint. Cases of minor and inadvertent breaches may be resolved through a "rectification" process²⁸.

58. If the Commissioner upholds a complaint, or the inquiry raises matters of wider interest, s/he may submit a report on the result of his/her investigation to the Committee on Standards and Privileges; the report sets out the basis for the Commissioner's conclusion but does not include recommendations for sanctions. The Committee then considers the Commissioner's findings and, after reaching its own judgment, publishes a final report (the Commissioner's report to the Committee is published at the same time). The Committee decides by a majority of its members whether to impose any sanctions and may recommend penalties, some of which require the agreement of the House of Commons. The GET was told that since the Committee's inception in 1995, in every case where the Committee has recommended to the House that discipline be imposed, the House has implemented that recommendation through a Resolution.

²⁸ Since 2002, the Parliamentary Commissioner for Standards has had discretion to allow Members to correct minor or inadvertent failures to register or declare interests and the Commissioner does not have to report it fully to the Committee on Standards and Privileges. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House, either by means of a point of order or of an intervention in a relevant debate.

59. In the House of Lords, the independent Commissioner for Standards investigates alleged breaches of the Code of Conduct upon individual complaints. The Commissioner may, with the agreement of the Sub-Committee on Lords' Conduct, initiate an investigation of his own accord (i.e. without a complaint having been received).

60. After investigation the Commissioner reports his/her findings to the Sub-Committee on Lords' Conduct; the Sub-Committee may comment on but may not amend the Commissioner's findings and, where appropriate, it recommends a disciplinary sanction to the Committee for Privileges and Conduct. The Committee for Privileges and Conduct may recommend, by a majority of its members, sanctions to be agreed by the House of Lords. The results of complaints work carried out by both the Commissioner and the Committee are made public (except when the Commissioner does not uphold a complaint in which case the Committee – to whom the Commissioner has reported this fact – has the discretion not to make a report itself but only to notify the complainant of the result).

61. As described above, the whole structure heavily relies on self-regulation. The main argument to substantiate the right for Parliament to regulate its own affairs is based on the principle of parliamentary privilege, in particular the aspect of privilege known as exclusive cognisance, the right of each House to regulate its own proceedings without interference from the courts²⁹. This is a key feature of the United Kingdom constitution, in which Parliament is sovereign. Members of Parliament are not, however, immune from the ordinary criminal law. Disciplinary powers deal with matters which are not proscribed by law and are exclusively a matter for each House. As such, the exercise of these powers cannot be subject to judicial review or other scrutiny by the courts. Much public debate has taken place concerning the scope of parliamentary privilege and the effectiveness of self-regulation.

62. Some procedural elements have, however, been introduced in the system to address public concerns about Parliament acting as judge and jury when disciplining its Members. Hence, the Commissioners' roles and the routine publication of their findings have institutionalised a degree of independent review and transparency in the whole process. Likewise, it is worth noting that the Committee on Standards and Privileges is chaired by an elected Member drawn from the major opposition party of the House of Commons. And, while the House of Commons and the House of Lords regulate their respective disciplinary arrangements, these arrangements are subject to public comment by the Independent Committee on Standards in Public Life.

63. Likewise, the recent establishment of the Commissioner's ability to initiate an investigation him or herself represents a positive step towards the proactivity of the institution, and can only help in addressing the recurrent criticism that the system is only reactive.

64. Furthermore, the GET was told that on 2 December 2010 the House of Commons unanimously agreed to a resolution which endorsed the principle that lay members (i.e. persons who are not and have never been parliamentarians) should sit on the Committee of Standards and Privileges. On 12 March 2012 the House of Commons agreed to separate the existing Committee of Standards and Privileges to create a Committee on Standards, to which lay members will be appointed on the basis of fair and open competition³⁰, and a Committee of Privileges. This agreement is in the process of being implemented. The GET encourages this initiative and other initiatives that are aimed at

²⁹ Parliamentary privilege is an important element of the British unwritten constitution. It consists of the combination of rights, powers and immunities which underpin the abilities of both Houses to function effectively and free from external interference. It applies principally to proceedings in Parliament but also extends to the functions of MPs and Lords more widely. The doctrine of parliamentary privilege was developed as a defence against incursion by the monarch in its executive capacity.

³⁰ Lay members are currently being recruited; first interviews are scheduled in September 2012.

enhancing public acceptance of the robustness and independence of the disciplinary process both for the House of Commons and for the House of Lords.

65. As noted in paragraph 61, Members of Parliament are subject to general criminal law and no special criminal procedures apply to them by virtue of their public office. Anyone participating in proceedings in Parliament, such as giving evidence to committees or parliamentary debates, enjoys absolute freedom of speech (non-liability). This means that words spoken in proceedings in Parliament cannot be used against the speaker, or anyone else³¹, in civil or criminal cases. Parliamentary privilege does not provide protection for other activities an MP or peer may engage in outside formal proceedings.

66. Each of the Commissioners for the UK Parliament has procedures s/he follows if, during the course of an investigation, s/he believes that a member may have committed a crime. As a general practice, the Commissioner for the Commons goes to the Committee on Standards and Privileges and seeks permission to refer the matter to the police; the Commissioner for the Lords would go to the Sub-Committee on Lords' Conduct first. While this requirement for permission could pose obstacles for referring corrupt activity to the appropriate authorities, the GET had received no evidence indicating that a referral had not been made or would not be made appropriately. The GET was told that if the Commissioner for the House of Commons received a complaint about an activity which, if the facts were true, would entail criminal elements, s/he would not refer the matter directly to the police; instead s/he would tell the complainant to make the complaint directly to the Police. The GET was further told that an agreement was signed in 2008 between the Committee on Standards and Privileges, the Commissioner and the Metropolitan Police Service to enable proper liaison arrangements. The agreement consolidates the principle that criminal proceedings against Members should take precedence over the House's own disciplinary proceedings. As such, the Police undertake to inform the Commissioner in the normal course of events if they are considering initiating criminal inquiries into a Member's activities, with a view to establishing whether the alleged conduct is also the subject of a complaint under the Code³².

67. If the Commissioner receives a complaint about a Member who is also in the Government, and the complaint is about his/her Government duties, the Commissioner advises the complainant that breaches of the Ministerial Code are a matter for the Prime Minister. The conduct of Government Ministers as Ministers is governed by a separate Ministerial Code and enforcement lies with the Prime Minister. In the GET's view, if the information provided to the complainant is to simply say one has the wrong office and to provide the complainant with the correct contact, this may not send the correct signal to the public that potential misconduct of a Member who is carrying out an executive function or vice versa is indeed a concern. While the conduct of a Member, solely as a Minister is the responsibility of the Prime Minister, the Member is still required to register his or her interests with the Parliament and there is certainly the possibility that both will have issues arising out of the same activities of the Minister if they involve interests that should have been registered and were not. In the GET's opinion, it might very well help with improving the public's view of Parliament if the Commissioners' working relationship or an agreement with the Prime Minister of how to handle complaints received by their respective offices that could or should be dealt with by the other was clear and responsive³³.

³¹ Non-liability applies not only to members, but to all those attending parliamentary proceedings (witnesses, civil servants, experts, etc. who are not under oath).

³² House of Commons Committee on Standards and Privileges. The Complaints System and the Criminal Law. Eighth Report of Session 2007-2008. HC 523.

³³ The corruption prevention mechanisms applicable to Ministers and their staff has not been evaluated by GRECO as the evaluation of the UK in the second round focused on the career service within public administration and not the fuller executive function.

68. A key difference between the Westminster system and that of the devolved institutions in Scotland, Wales and Northern Ireland is the application of criminal law to aspects of standards of conduct. In this connection, a Member who takes part in proceedings of the relevant Parliament/Assemblies in contravention of the applicable rules on registration or declaration, or the general ban on paid advocacy, may be guilty of a criminal offence. Moreover, in all three jurisdictions, a failure to comply with an order of the Parliament/Assemblies to give evidence or produce documents may result in a criminal prosecution.

Sanctions

69. The House of Commons retains the power to reprimand or admonish, suspend withholding salary, or expel MPs. Where money has been wrongfully claimed, the House can require its repayment. A draft Bill on Recall of MPs was published on 13 December 2011³⁴. The draft Bill sets out two triggers for a recall petition: the first is where an MP is convicted in the UK of an offence and receives a custodial sentence of 12 months or less; the second is where the House of Commons resolves, through a vote by MPs, that a recall petition should be opened. The first trigger will close a gap in the existing legislation whereby MPs are only disqualified if they receive a custodial sentence of more than 12 months. The second trigger is an additional disciplinary power for the House of Commons, which for the first time allows constituents to have their say in deciding whether their MP should stay in office.

70. Despite the aforementioned range of sanctions at the disposal of the House of Commons, the latter has exercised these powers rather cautiously. Other than the automatic disqualification which applies when a Member is imprisoned for more than 12 months (see below under paragraph 72), the power of the House itself to expel an MP has been rarely used³⁵. Some more significant sanctions were imposed in relation to the expenses crisis when two MPs were suspended, many others were required to repay money or expenses and four were required to orally apologise to the House. One MP's resettlement grant was withheld. For criminal sanctions imposed in relation to the expenses crisis, see paragraph 24.

71. Sanctions in the House of Lords include censure and suspension which cannot last any longer than the duration of the existing Parliament. The House cannot currently expel a Member permanently.

72. Statutory disqualifications (loss of mandate) may also apply if a Member of the House of Commons and/or the House of Lords is convicted for treason (Forfeiture Act 1870). Likewise, a member of the House of Commons would also lose his/her mandate if found guilty of an offence for which he/she received a custodial sentence of more than 12 months and was detained in the British Isles or the Republic of Ireland; if he/she is unlawfully at large; if found guilty of corrupt or illegal electoral practices; if subject to a bankruptcy restrictions order or a debt relief restrictions order in England and Wales, or the equivalent in Scotland or Northern Ireland; or if detained for treatment on mental health grounds for six months or more³⁶.

³⁴ The Political and Constitutional Reform Committee concluded its evidence sessions on the draft Bill on Recall of MPs on 19 April 2012 and published its report on 28 June 2012. The UK Government is considering the Committee's recommendations and will respond in due course.

³⁵ Since 1922, the House has used the power to expel an MP on three occasions following convictions of fraud (1922), bribery (1947) and forgery (1954). Draft Bill on Recall of MPs - Background, page 13.

³⁶ The Government is currently supporting a Private Member's Bill to remove this disqualification.

73. The GET is of the strong view that clear expectations of conduct and transparency need to be coupled with effective sanctions. Sanctions must be proportionate to the severity of the misconduct and there should be clear procedures for escalating from soft measures to tougher ones. The GET understands that some steps have been initiated to reinforce discipline in Parliament, including through the proposed legislation concerning possible recall mechanisms in the House of Commons. The GET takes these on-going initiatives as positive steps which will hopefully help win back some of the trust that has been lost in the expenses case. The GET also notes that, at the time of the on-site visit, there was some on-going discussion as to changes in the disciplinary regime in the House of Lords; in particular, the draft House of Lords Reform Bill (which is no longer in this Parliament agenda, see also footnote 5) contained a broader range of sanctions allowing for the suspension, resignation and expulsion of Members of the House of Lords. With a view to provide for a more credible and robust sanctioning regime for misconduct and to enhance trust and confidence in the system, and in line with the initiatives already underway in this area, **GRECO recommends (i) reviewing the available disciplinary sanctions for misconduct of Members of the House of Commons and Members of the House of Lords in order to ensure that they are effective, proportionate and dissuasive; and (ii) better describing in the relevant guidance to the Codes of Conduct the applicable sanctions for breaches of the rules.**

Advice, training and awareness

74. In the House of Commons, the Commissioner, the Registrar and the House authorities are available for providing individualised advice (on a confidential basis) to Members and for increasing awareness of the rules. The Commissioner is further responsible for preparing guidance and providing training for MPs on matters of conduct, propriety and ethics. Some examples were given as to basic induction courses on the Code of Conduct provided to new MPs, video tutorials, a series of briefings to political parties and a couple of seminars organised for MPs on how to register their interests and assets. The Commissioner also provides advice to the Committee on Standards and Privileges about the interpretation of the Code of Conduct and Guide to the Rules relating to the Conduct of Members.

75. An interesting difference in the role of the responsible Commissioners exists in the Parliament/Assemblies of Scotland, Wales and Northern Ireland. None of the devolved institutions requires its Commissioner to give advice to Members on how to comply with the rules on the registration of interests, or on how to avoid a breach of the rules. The decision not to give the Commissioners a role in advising Members on individual cases or complaints was taken in order to maintain his/her independence by avoiding the requirement to provide advice to a Member on a matter which could potentially become the subject of an investigation by him/her at a later date. In practice, the Commissioner in the House of Commons frequently delegates the advising of individuals to the Registrar. In the House of Lords, the various advisory duties are carried out mainly by the Registrar of Lords' Interests and not the Commissioner, whose work relates largely to the investigation of complaints.

76. In the course of the interviews held during the on-site visit, the GET got the impression that a non-negligible number of the cases dealt with by the relevant investigative bodies in Parliament involved a lack of understanding on the part of the Members rather than a deliberate attempt to circumvent the rules. Interlocutors talked about "grey areas" where MPs/Lords could not be certain as to the most appropriate way to act or refrain from acting. In this context, the GET welcomes the more formal tools in place to provide advice to individual Members and encourages the Members to think expansively regarding opportunities for on-going dialogues on issues of ethics and integrity whether through a system of mentors for new Members or otherwise.

77. Like every organisation which is seeking to repair its image or hold public confidence, each House needs to explore ways to instill, maintaining and promoting a

strong culture of ethics in its Members. Creating and maintaining a culture of integrity requires something more than just accountability mechanisms. It needs visible support from leadership, an effective avenue for discussing and resolving issues that raise ethical concerns, both on an individual basis and as an institution, and the systematic reinforcement of shared standards that the institution and the public expects of its Members. The GET attaches key value to the efforts taken in the UK to enhance opportunities to engage in individual and institutional discussions of integrity and ethical issues related to parliamentary conduct.

78. Finally, to support and strengthen public trust in the institution, the GET believes it is essential that the public continues to be made aware of the steps taken and the tools developed to reinforce the ethos of parliamentary integrity, to increase transparency and to institute real accountability. The GET encourages the UK Parliament, as well as the devolved institutions, to make their efforts in this area as well-known as possible.

IV. CORRUPTION PREVENTION IN RESPECT OF JUDGES

Overview of the judicial system

Categories of courts and jurisdiction levels

79. There are a wide variety of courts and tribunals in the United Kingdom, some of which are highly specialised and deal only with certain types of matters. But all courts and tribunals fall, more or less, into a fairly well-defined hierarchy. Moreover, it must be noted that the United Kingdom does not have a single unified judicial system: England and Wales have one system, Scotland has another, and Northern Ireland a third.

80. On 1 October 2009, the Supreme Court of the United Kingdom took over functions previously held by the Appellate Committee of the House of Lords. It assumed jurisdiction as the highest and final court of appeal for appeals on arguable points of law of the greatest public importance, for the whole of the United Kingdom in civil cases, and for England, Wales and Northern Ireland in criminal cases. Additionally, it hears cases on devolution matters under the Scotland Act 1998, the Northern Ireland Act 1988 and the Government of Wales Act 2006. This jurisdiction was transferred to the Supreme Court from the Judicial Committee of the Privy Council. The court consists of twelve permanent judges and any temporary replacements are taken from the highest appeal courts of the separate jurisdictions.

81. There are many different types of judges sitting in the courts and tribunals, each hearing different types of cases and with different powers at their disposal when deciding the outcome of a case. Judges, magistrates and tribunal members sit within three main jurisdictions - civil, criminal and family.

82. The judges in each of the three separate jurisdictions in the United Kingdom are as follows, in England and Wales:

- a. The Lord or Lady Justices of Appeal sit with two colleagues on the Court of Appeal to hear appeals in civil cases from the High Court and in criminal cases, from the Crown Court.
- b. High Court Justices normally sit as single judges and to a small extent with others in a Divisional Court to hear, at first instance, the more important civil cases. Under the label of "the Crown Court" they are also trial judges for major criminal cases and some also sit on the Criminal Division of the Courts of Appeal.
- c. Circuit Judges hear civil cases of limited jurisdiction and try most criminal cases heard with a jury except those which by law have to be heard by High Court Judges. When exercising criminal jurisdiction they sit in the Crown Court. Fee-paid circuit judges are known as "Recorders".
- d. District Judges, who have the title "District Judges (Magistrates' Courts)", conduct summary trials of criminal cases and have a limited jurisdiction on civil cases, i.e. family matters.
- e. Other District Judges with special jurisdictions.
- f. Deputies of categories b to e above are part-time fee-paid judges with fixed periodic tenures.

83. In Scotland, the structure is similar to that of England and Wales though the laws administered and the terminology used can be quite different. The equivalent of the Court of Appeal is the Inner House of the Court of Session. The equivalent of the High Court is the Outer House of the Court of Session. Broadly speaking, the equivalent jurisdictions of the English Circuit Judge in the County Courts and in the Crown Courts are vested in "Sheriffs" and more senior sheriffs are known as "Sheriffs Principal". The main substantive difference is that there can be appeals from a Sheriff to a Sheriff Principal. As in England and Wales, magistrates exercise the lowest tier of jurisdiction. The Court of Session, like the High Court in England and Wales and in Northern Ireland

is, as such, a civil court. The same judges sit in its criminal equivalent in Scotland which is the High Court of Justiciary. It has original jurisdiction and appellate jurisdiction in the form of two Divisions with panels of three judges sitting as a court of criminal appeal.

84. The court and judiciary system in Northern Ireland is more or less the same as England and Wales though entirely separate. The only slight difference is that Circuit Judges are known as County Court Judges.

85. Tribunals are generally used as an alternative to the courts for resolving disputes. Tribunal judges are legally qualified people who adjudicate in tribunal cases, either alone or with the assistance of other panel members. Tribunal panel members are not legally qualified. Their role is to provide specialist knowledge to the tribunal. Tribunal members must have experience or background knowledge relevant to the work of the tribunal on which they sit. Most tribunal appointments are on a fee-paid basis, and there are approximately 500 salaried tribunal judges.

86. Magistrates' courts are a key part of the criminal justice system and, in England and Wales, 97% of cases are completed there. In addition, magistrates' courts deal with many civil cases (e.g. anti-social behaviour, public health) and are responsible for the enforcement of fines and community punishments. Magistrates are trained, unpaid members of their local community who work part-time. All magistrates sit in adult criminal courts as panels of three, mixed in gender, age and ethnicity whenever possible to bring a broad range of life experience to the bench. All three members of the panel have equal decision-making powers but only one member, the Chairman, speaks in court and presides over proceedings. A qualified legal adviser is available to the panel at all times.

87. HM Courts and Tribunals Service, an agency of the Ministry of Justice, provides the administration of justice in courts in England and Wales and UK-wide tribunals. The GET was told that while the administrative rearrangement in 2011 to fuse the courts and tribunals services was in part driven by a desire to increase efficiency, it was carried out in a way which would improve the element of career in the judiciary with more movement in the profession and the further professionalisation of the tribunal service.

The principle of independence

88. The United Kingdom does not have a single written constitution but rather a set of laws and principles found within many different documents including legislation, judgements and treaties. For that reason, the principle of judicial independence cannot be found in a single instrument. The elements which form the principle are contained in a number of statutory provisions: in primary legislation, and in common law principles.

89. Section 3 of the Constitutional Reform Act 2005 provides a guarantee of continued judicial independence. It places a duty on Ministers of the Crown (including the Lord Chancellor) and others with responsibility for matters relating to the judiciary or otherwise to the administration of justice to uphold the continued independence of the judiciary. No individual or institution may give a "directive" to a judge in an individual case. Judges must interpret statutory and common law (both substantive and procedural) and apply it to the individual case before them; they perform this task without direction from others. Magistrates (lay justices) are advised on the law by their clerks (who are legally qualified), but determine the application of the law to the individual case by themselves: they are not "directed" by their clerk. The principle that the judiciary is immune from legal suit in respect of any acts carried out whilst discharging judicial functions is established at common law³⁷.

³⁷ Hamond v Howell (1677) 2 Mod. Rep. 218; Sirros v Moore [1975] QB 118.

90. At the start, the GET notes that, according to available public surveys, the judiciary ranks as the most trusted institution by the public in the United Kingdom. For those operating in the judiciary system the rule of law presupposes the permanent presence of the three "I"-s: impartiality, independence and integrity; in the United Kingdom there is trust in this commitment. Moreover, the GET wishes to highlight the important efforts taken by the authorities to engage in continuous reform in an area where high standards are already in place, demonstrating little or no passivity or self-indulgence in the system. This proactive attitude is illustrated, for example, by reference to the changes introduced in the Constitutional Reform Act 2005 concerning the day-to-day management of the judiciary (displacing the Lord Chancellor as the head of the judiciary³⁸), the way judges in England and Wales are appointed (Judicial Appointments Commission) and the way complaints are dealt with (Office for Judicial Complaints).

91. Another positive example is the creation of the UK Supreme Court, also through the Constitutional Reform Act 2005. A key aspect of the principle of an independent judiciary is that judges shall not only be independent, but also be seen to be independent. Until recently, the highest court in the United Kingdom was the Appellate Committee of the House of Lords, a committee of the upper house of Parliament. In theory, this might have been perceived as an infringement of the aforementioned principle. However, for over a hundred and fifty years, only qualified lawyers appointed for the purpose, or persons who had already held high judicial office, ever sat on the Appellate Committee which decided the cases.

92. Important efforts have been made to provide for more uniform rules applicable to the functioning of court-based judiciary, tribunal judges and magistrates, most notably with respect to the applicable provisions and procedures concerning appointments, ethics and disciplinary action.

93. Steps are also being taken at present to provide possible solutions to what is recognised as a persistent challenge in the judiciary, namely ensuring diversity so that no one is, or feels, excluded on the basis of gender or ethnicity from the judicial profession. In this connection, the latest report of the European Commission for the Efficiency of Justice (CEPEJ), found that 77% of professional judges in England and Wales, and 79% in Scotland, were men³⁹ (these figures refer to the courts judiciary). Ensuring diversity also serves to better guarantee the independence of the judiciary so that the public do not perceive judges to be drawn predominantly from a specific group or class of society. In the last few years, respective Lord Chancellors have encouraged efforts towards diversity in the gender and diversity of persons appointed. Discussion has been launched as to how the "diversity" and "merit" requirements would be accomplished in the current (single recommendation) selection process. The GET was told that time will be needed to develop a diverse pool of candidates for higher levels of the judiciary. The GET very much values the on-going discussion in this respect.

Recruitment, career and conditions of service

Recruitment

94. Judges – both salaried and fee-paid –are appointed to office. Appointments to courts in England and Wales together with Tribunals are to be effected after a fair and

³⁸ The constitutional changes brought in by the Constitutional Reform Act 2005, entailed *inter alia* the displacement of the Lord Chancellor as the head of the judiciary and the creation of a Supreme Court. The Lord Chancellor remains responsible, through Parliament to the public, for the funding and provision of the administrative system of the courts. The Lord Chief Justice is responsible for the deployment of individual members of the judiciary, the judicial business of the courts (including the allocation of work within the courts), and the well-being, training and provision of guidance to the judiciary. There is concurrent responsibility for some matters, for example for the appointments of presiding judges and for discipline.

³⁹ Fourth Evaluation Report on European Judicial Systems, European Commission for the Efficiency of Justice (CEPEJ), 20 September 2012.

open competition which is to be based on merit and administered by the Judicial Appointments Commission. For most judicial posts, the statutory criteria state that individuals must have gained legal experience (generally, applicants must hold the relevant legal qualification for either 5 or 7 years, this serves as a basis to prove the legal experience acquired). Similar recruitment and appointment rules are applicable in Scotland and Northern Ireland where dedicated appointment commissions have been set-up.

95. The Judicial Appointments Commission (JAC), an independent commission, is responsible for selecting candidates for judicial office to courts and tribunals in England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland (i.e. non-devolved powers). The JAC is composed of 15 members, including the Chairman. Twelve of these are selected through open competition by the Ministry of Justice and are subject to security checks. The remaining three Commissioners are selected by the Judges Council and are existing members of the senior judiciary.

96. The Lord Chancellor may (i) accept a selection, (ii) reject it, (iii) require it to be reconsidered. Where the Lord Chancellor accepts a selection, he is then bound to appoint the person selected unless the candidate fails a health test, or declines to be appointed, or is not available within a reasonable time. The Lord Chancellor may reject a selection only on the ground that the candidate selected is 'unsuitable for the office concerned or particular functions of that office'. He may require reconsideration of a selection only on the ground (i) that there is not enough evidence that he is suitable, or (ii) that there is evidence that he is not the best candidate. If either of these powers is exercised, he must give written reasons. Where the Lord Chancellor rejects a candidate, the Commission may not select the same person again as part of the same exercise. If the Commission is asked to reconsider the selection of a candidate, then it may on reconsideration select the same candidate again. The Lord Chancellor may not reject or require reconsideration of selections indefinitely. The basic rule is that once he has rejected or required reconsideration of a first selection and the Commission has made a second one, he must accept one of the Commission's selections (but not necessarily the last). He can extend the process further only in two situations: (i) if he required reconsideration of the first selection, he can reject the second one; and (ii) if he rejected the first selection, he can require reconsideration of the second one. But in either of these situations, on the Commission's third attempt, he must accept one of the Commission's selections (again, not necessarily the last).

97. Some senior appointments are made by the Queen on the advice of the Lord Chancellor, who is a member of the Government or, in the case of the most senior judiciary, on the advice of the Prime Minister. In particular, the Master of the Rolls, the Chancellor of the High Court, the President of the Queen's Bench Division, the President of the Family Division and Court of Appeal judges are appointed by the Queen on the recommendation of a selection panel convened by the JAC. The selection panel comprises the President of the Supreme Court or his nominee as Chair, the Lord Chief Justice or his nominee, the Chairman of the JAC or their nominee and a lay member of the JAC.

98. The JAC is required to select people for appointment who are of "good character". Candidates are asked during the selection process to declare whether there is anything in their past conduct, or present circumstances which would affect their application for judicial appointment: all matters that affect them; all matters whether or not these have been declared in a previous application; and all matters even if they have already been selected for judicial office or are/have been a judicial office holder.

99. At the initial stage, candidates are primarily responsible for satisfying themselves of the acceptability of their application when judged against the JAC's Good Character Guidance. The JAC makes an assessment of the character issues declared on the application form and the character checks made with professional checking bodies,

normally after the selection day stage of the selection process. If candidates do not meet the high standards required of judicial office holders, their application will not be allowed to proceed further. The JAC makes its decision on character before making any recommendation to the Lord Chancellor. Candidates are warned, therefore, that it is in their own interest to ensure that their assessment is realistic.

100. Magistrates in England and Wales are appointed by the Lord Chancellor on the advice of the respective 47 local advisory committees composed of existing magistrates and local lay persons. When applying to become a magistrate an application form must be filled in, references are taken up and at least one, but usually two, interviews are held before a decision is made.

101. Most tribunal appointments are made through the JAC. The Senior President of Tribunals can be selected from the ranks of existing Court of Appeal judges (or the equivalent courts in Scotland and Northern Ireland) or through open competition run by the JAC.

102. During the on-site visit, the GET heard detailed presentations on the respective systems of appointments in the three jurisdictions. The GET was told that social transformations and the need to fulfil a more demanding quest for diversity in the appointment of judicial officers, has entailed important reform in this area. In particular, elaborate systems of appointing every grade of judge have been developed involving dedicated appointment bodies, i.e. the Judicial Appointments Commission in England and Wales, the Judicial Appointments Board in Scotland and the Northern Ireland Judicial Appointments Commission, which reportedly carry out the function with great care and absolute independence with the intent of making the appointment on merit alone. It would appear that through the establishment of these bodies the transparency of the appointment process has substantially increased, particularly as from the earlier "tap-on-the-shoulder tradition" (a system whereby the Lord Chancellor, pursuant to secret consultations with relevant judges, effectively made the appointments even if the formalities were carried out by the Queen).

103. With the new regime, appointments must be made based on merit from among qualified persons of "good character", having regard to the need to encourage diversity through fair and open competition. In this connection, the GET is pleased to note both the dynamic and meticulous approach taken by the appointment bodies when selecting candidates. For example, role-play exercises simulating a court or tribunal environment have been introduced in the selection process to assess how a candidate would deal with situations s/he may face and the decisions s/he may be asked to make if s/he were to be appointed.

Career

104. Salaried judicial office holders (part time or full time) are permanent office holders and are appointed for life until retirement age; they are required to give up legal practice on appointment. Fee-paid (part time) judicial office holders to the courts in England and Wales and the Tribunals are initially appointed for a set period – usually 5 years – renewable automatically by the Lord Chancellor with the concurrence of the Lord Chief Justice. Since 1993, it has been the policy of successive Lord Chancellors that judicial office holders should not sit beyond the age of 70. Exceptionally, and under a well-defined procedure, the retirement age may be extended to 75.

105. Security of tenure was first provided for in the Act of Settlement, 1701. It can now be found in Section 11(3) Senior Courts Act 1981, Section 17 Courts Act 1971, Section 132(a) County Courts Act 1984 and Section 33 Constitutional Reform Act 2005. The principle that judicial terms and conditions of appointment are secure is established in:

Section 12 Senior Courts Act 1981, Section 18 Courts Act 1971, Section 11 County Courts Act 1984, and Section 34 of the Constitutional Reform Act 2005.

106. The GET nevertheless notes that the principle of security of tenure does not apply to the various categories of fee-paid (deputy) judges hearing cases in the ordinary courts (see paragraph 82 for categories). The authorities argue that such a system serves as a kind of training ground (e.g. for recorders who may wish to become Circuit Judges), and also allows professionals to take a decision on whether to pursue a career as a salaried judge or not, in particular since once one becomes a salaried judge, it is impossible to return to legal practice. The GET wishes to stress that, save in exceptional circumstances, judges should enjoy security of tenure until pensionable retirement⁴⁰. This is a principle which is internationally recognised; the primary concern being the appearance of bias. The danger of "apparent bias" being perceived by a litigant, when the judge hearing his or her case is a fee-paid judge, is according to authorities minimised via the above-explained transparent, independent and merit-based appointment processes, which are applicable for the recruitment of both salaried and fee-paid judicial officials. The GET however has misgivings regarding the systemic nature of the practice in the United Kingdom of relying on fee-paid (deputy) judges of all kinds; this concern becomes of particular relevance when one takes into account that almost 41% of all the judicial officials employed, except recorders and the ones employed in tribunals, were employed on a fee-paid basis as of 1 April 2011⁴¹. For instance, there were more fee-paid (deputy) judges (931) sitting in the County and Magistrates' court than the salaried judges (581) sitting in the same courts. On the other hand, a litigant may be uneasy about having his or her case heard by a judge who is concurrently carrying on legal practice (an activity which is specifically banned for salaried judges). It is somewhat difficult to understand why a country of the size and with the resources of the United Kingdom cannot maintain a court system with permanent salaried judges instead of continually resorting to the use of fee-paid and deputy judges. The impression given during the on-site interviews was that budgetary constraints were partly the reason; substantial cuts have been applied to the judicial sector, in particular in local courts. The authorities further conveyed during the on-site visit that ideally it would be better to have more salaried judges. The GET believes that, in line with the contemporary evolution of the UK judicial system and the continuous endeavours of the country to improve in this area, it should be possible for the authorities to introduce prompt measures addressing this important matter, and to do so without causing excessive financial constraints. In this connection, the GET particularly values the efforts made in Scotland to significantly reduce the number of fee-paid and temporary sheriffs in the last three years in spite of the current economic situation and the resulting financial cuts. Temporary fee-paid judges are not a serious problem in Northern Ireland. **In order to ensure security of tenure for judicial office holders, GRECO recommends that the number of fee-paid judges is reviewed with a view to reducing it in favour of salaried judges, particularly at first in relation to the High Court and district level.**

107. Judicial deployment in England and Wales is the responsibility of the Lord Chief Justice. Judicial deployment for Tribunals is the responsibility of the Senior President of Tribunals as set out in the Tribunals, Courts and Enforcement Act 2007. They are supported in their roles by the Heads of Division, the Senior Presiding Judge, Presiding Judges and Presidents of Tribunals. The Lord President of the Court of Session and Lord

⁴⁰ In this connection, Opinion 1/2001 of the Consultative Council of European Judges states that: "European practice is generally to make full time appointments until the legal retirement age. This is the approach least problematic from the view point of independence." It is also pointed out in the 2010 report of the Venice Commission on European Standards as regards the Independence of the Judicial System (CDL-AD(2010)004) which states that, apart from special cases such as constitutional judges, "tenure until retirement must always be favoured".

⁴¹ <http://www.judiciary.gov.uk/Resources/JCO/Documents/Stats/overview-data-of-judicial-appts-by-type-2011.xls>

Chief Justice of Northern Ireland are responsible for judicial deployment in Scotland and Northern Ireland respectively.

108. In England and Wales, judges may be removed from office on the grounds of inability or misconduct. The decision to remove a judge is taken by the Lord Chancellor with the agreement of the Lord Chief Justice. In cases of misconduct, a decision to remove a judge can only be taken after an investigation by the independent Office for Judicial Complaints and a finding against the judge in question (see also paragraphs 134 and 135).

109. Where a judge has been informed that the Lord Chancellor and Lord Chief Justice are minded to issue a disciplinary sanction, the judge may request that the complaint and proposed sanction be considered by a review body. Such a request is first assessed (i.e. the merits of the case for review) by a nominated judge. If the request for review is granted, a review body made up of judges and lay representatives will review the whole case.

110. Once an investigation into a complaint has been concluded, the judge (or the complainant) may ask the Judicial Appointments and Conduct Ombudsman to review the investigation of the complaint but only on procedural grounds (i.e. fair process). The Ombudsman may not review the merits of the overall outcome of the case, but can make a finding of maladministration. If the Ombudsman finds that the determination is unreliable due to a procedural failure or maladministration, s/he may set aside the determination.

111. All decisions on appointment, evaluation, discipline and any other decision regarding a judge's career must be reasoned. Appeal mechanisms are in place to challenge the aforementioned decisions.

Conditions of service

112. Judicial salaries are established by law, are not subject to annual approval, and may be increased but not decreased. It is not possible to state what a salary for a judge will be from the start of their career as there is no set career progression path and many judges remain in the same salary group for their entire judicial career. Judges also benefit from a judicial pension scheme as provided for by legislation (both primary and secondary). The details of the scheme are publicly available.

113. The annual salaries at the most common entry points into the salaried judiciary in England and Wales are as follows: Group 7 (which includes District Judges) - £102,921 (127,000 EUR); Group 6.1 (which includes Circuit Judges) - £128,296 (158,400 EUR); and Group 4 (which includes High Court Judges) - £172,753 (213,290 EUR). These salaries only vary following a pay settlement (and in the case of Group 7 judges, those based in London receive £4,000 – i.e. 4,940 EUR per year in London weighting). The current annual salary of a Justice of the Supreme Court is £206,857 (255,400 EUR).

114. Scottish Judges are paid a set salary which is subject to periodic evaluation by an independent salary review board and as of March 2012 they were as follows: Lord President £214,165 (264,421 EUR), Lord Justice Clerk £206,857 (255,400 EUR), Inner House Judge £196,707 (242,870 EUR), Outer House Judge £172,753 (213,290 EUR), Sheriff Principal £138,548 (171,000 EUR) and Sheriff £128,296 (158,402 EUR). As of 1 April 2011, the salary range for judges working in Northern Ireland is £102,921 (126,295 EUR) to £214,165 (264,420 EUR).

Case management and procedure

115. Case assignment in England and Wales is exercised by the Lord Chief Justice under the provisions of the Constitutional Reform Act 2005, the Senior Courts Act

1981 and the Consolidated Criminal Practice Direction. The Lord Chief Justice has statutory and implied power to delegate his/her functions to a defined category of judges who are, in turn, able to deploy judges and list cases on his/her behalf. Case assignment is also dependent on specialisation criteria. In this connection, certain judges are able to sit on certain types of cases. This is generally set out in the statute that creates the offence itself (for example certain proceedings under the Extradition Act 2003). This is often regulated using a system called "ticketing". Under this system judges need to submit an application for authorisation or a "ticket" to be able to sit on a certain class of case. The ticketing system tends to be used in the most complex cases, for example in murder trials. Case assignment in Scotland and Northern Ireland follows the same pattern.

116. It is possible for either party to a case to apply for a judge to recuse (i.e. disqualify) himself/herself from the case on the basis of bias. Under the common law systems of jurisprudence in England and Wales, as well as in Northern Ireland and also under Scottish law, actual bias would be a ground for setting aside or nullifying a judgment. Cases of actual bias are highly unusual. What is more common are cases of alleged apparent bias. There is now substantial case law setting out the legal principles relating to apparent bias; the applicable test is whether, having regard to the circumstances, there is a real danger of bias on the part of the judge or relevant member of the Tribunal in the sense that s/he might unfairly regard or have unfairly regarded with favour or disfavour the case of a party to the issue under consideration by her/him. If the judge declines to recuse him or herself from hearing the case, this decision can later be appealed to the Court of Appeal which, if it upholds the appeal, can direct a retrial.

117. There are a number of safeguards to ensure that cases are handled without delay by judges. For example, guidelines exist requiring a judge to give his/her judgment within one month of the end of any family case and within two months of the end of any other civil case. There have been very few cases (22 since 1975) in which the European Court of Human Rights (ECHR) decided that there had been undue delays of judicial proceedings in the United Kingdom.

118. In general, court hearings take place in public. There are however exceptions to this principle of open justice as set out in statute and rules of court. Privacy or anonymity orders may be necessary in certain cases, for example, where children are involved, and where questions of blackmail, national security, and/or trade secrets arise.

119. During the on-site visit no problematic issues were identified in these areas. Case management appears to be adequate; external interference in the adjudication of particular cases is not perceived as a source of concern in the United Kingdom. The GET also had the opportunity to test, when examining materials and information on the judiciary for the purposes of the present evaluation, the implementation of the policy of full transparency in the United Kingdom. In this connection, there is very little information on the judiciary that is not publicly available; judicial decisions, court forms, names of all judges and their appointment details, procedural rules, fees and costs, policy documents, guidance and protocols, information on the different court structures, etc. are easily accessible in the internet.

Ethical principles and rules of conduct

120. Following their appointment all judicial office holders are required to be 'sworn in' - to take the judicial oath and oath of allegiance - before they can commence sitting. If anyone declines or neglects to take such an oath and s/he has already entered office, then s/he must vacate it, and if not yet entered office, s/he must be disqualified from doing so.

121. Rules relating to judicial conduct are governed by the Lord Chancellor's Terms and Conditions for Judicial Office Holders. There are slight variations in the terms and conditions depending on the office held, but these are minimal. The Judges' Council's Guide to Judicial Conduct provides judicial office holders in England and Wales with additional guidance on judicial conduct. It was drafted by the Judges' Council following extensive consultation with the judiciary and was first published in October 2004; it was last revised in August 2011. The Guide to Judicial Conduct enshrines, in accordance with the Bangalore Principles of Judicial Conduct, the principles of independence, impartiality, integrity, propriety, competence and diligence. The Guide offers advice on gifts and hospitality, conflicts of interest and activities outside the judiciary.

122. Scotland and Northern Ireland have also developed guidance on ethical principles, i.e. Statement of Principles of Judicial Ethics for the Scottish judiciary (April 2010) and Statement of Ethics for the Judiciary in Northern Ireland (February 2007; last updated in August 2011). The aforementioned documents include similar rules to those applicable in England and Wales with regards conflicts of interest, gifts, etc.

Conflicts of interest

123. The Guide to Judicial Conduct, and the paragraphs on "Outside Activities and Interests" quoted from the Circuit Judge Memorandum on Conditions of Appointment and Terms of Service, provide general advice to judicial office holders about conflict of interest issues and the mechanisms aimed at preventing them.

124. As far as magistrates are concerned, the Lord Chancellor publishes "directions" to advisory committees containing policy on a range of issues including conflicts of interest. Additionally, magistrates are advised about a range of matters, such as avoiding potential conflicts of interest, by their local justices' clerk who is a trained legal advisor and occupies a position as both an employee of the court administration and a provider of independent legal advice to magistrates. This advice may be in relation to individual cases but also covers general issues such as the appropriateness of magistrates undertaking certain paid or unpaid activities outside of court.

Prohibition or restriction of certain activities

Incompatibilities and accessory activities

125. Full time judges cannot receive any remuneration, except for fees and royalties earned as an author or editor. Full time judges are barred from legal practice and disqualified from membership in the House of Commons. Judges must also refrain from partisan politics and should not take sides in matters of political controversy. It is possible for judges to be involved in the management of family assets and the estates of close relatives as long as they are not complex, time consuming or contentious.

Recusal and routine withdrawal

126. The conditions for disqualification of a judge from a case are: (i) if a member of the judge's family has any significant financial interest in the outcome of the case; (ii) if the case is to decide a point of law which may affect the judge in his/her personal capacity; (iii) if the judge is known to hold strong views on topics relevant to issues in the case; (iv) if s/he has previous findings against a party; (v) if s/he has a close family

relationship with a party; (vi) if s/he has a personal friendship with a party; (vii) if s/he has/had business association with a party; and (viii) if a member of the judge's family appears as an advocate.

Gifts

127. Judges and their family members⁴² are not allowed to ask for or to accept any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties. Instead of prohibiting judges from receiving any gifts, the Guide to Judicial Conduct makes a distinction between private and official gifts. Judges have to be wary of any gift or hospitality which might appear to relate in some way to their judicial office and might be construed as an attempt to attract judicial goodwill or favour. In addition, the Guide leaves it up to the individual judges to decide on the acceptability of gifts but requires them to seek the advice of the head of the appropriate jurisdiction if they have any doubts about a gift or hospitality.

128. Judges are allowed to be reimbursed for the cost of any necessary travel and accommodation required to attend a suitable lecture, conference or seminar. Judges are strictly prohibited from using equipment provided by the Court Service for his or her own personal use or for any other purpose which could bring the judge or the judiciary in general into disrepute.

Post-employment restrictions

129. For salaried judicial office holders, appointments to judicial office are intended to be for the remainder of a person's professional life. For salaried office holders, those who accept a judicial appointment do so on the understanding that following the termination of their appointment they will not return to private practice as a barrister or a solicitor, and will not (a) provide services, on whatever basis, as an advocate (whether by way of oral submissions or written submissions) in any court or tribunal in England and Wales, or (b) in return for remuneration of any kind, offer or provide legal advice to any person.

130. For the avoidance of doubt, former judges may provide services as an independent arbitrator/mediator and may receive remuneration for lectures, talks or articles. However, if there is any doubt in any particular case, the advice of the Lord Chief Justice should be sought before undertaking any services.

Third party contacts, confidential information

131. Confidential information acquired by a judge in his or her judicial capacity must not be used or disclosed by the judge for any purpose not related to their judicial duties. There are no specific provisions covering the relations of a judge with third parties. However, the Guide to Judicial Conduct explicitly warns judges to avoid letting social or other relationships improperly influence their judicial conduct or to convey or permit others to convey the impression that anyone is in a special position and able to improperly influence them in his/her judicial duties.

Declaration of assets, income, liabilities and interests

132. There are no specific requirements, duties or regulations in place for judges and his/her relatives to declare assets, income, liabilities and interests. The sole exception is if a judicial office holder becomes bankrupt. In such circumstances, s/he will need to

⁴² Family is as defined in the Bangalore principles: a judge's spouse, son, daughter, son-in-law, daughter-in-law and any other close relative or person who is a companion or employee of the judge and who lives in the judge's household. Judge's spouse includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

inform the relevant senior judicial authority – and in some cases this might be grounds for removal from office by the Lord Chancellor. In Northern Ireland, however, applicants to the judicial profession are asked to declare any interests, financial or otherwise, that may give rise to a conflict of interest if appointed to a judicial office. Serving judges have to declare potential conflict of interests pursuant to the Statement of Ethics.

133. The GET was made aware during the on-site visit that a petition to the Government has been made to require all members of the judiciary to submit their interests and hospitality to a publicly available register of interests⁴³ (as of July 2012, 20 signatures had been collected; the deadline for closing the petition is set on 25 October 2012). The GET wishes to note, however, that nothing emerged during the current evaluation which could indicate that there is any element of corruption in relation to judges, nor is there evidence of judicial decisions being influenced in an inappropriate manner. It would therefore appear that what was said in the First Evaluation Round Report (paragraphs 62 and 87) with respect to the absence of a system for formal registration of interests of judges is still valid. GRECO did not recommend the introduction of an asset declaration system at that time and the GET found no change of circumstance that would require such a recommendation at this time.

Supervision and enforcement

134. The Constitutional Reform Act 2005 gives the Lord Chancellor and the Lord Chief Justice joint responsibility for the system for considering and determining complaints about the personal conduct of all judicial office holders in England and Wales and some judicial office holders who sit in tribunals in Scotland and Northern Ireland. The Office for Judicial Complaints (OJC), set up as an associated office of Ministry of Justice on 3 April 2006, provides advice and assistance to the Lord Chancellor and Lord Chief Justice in the performance of their joint role.

135. Disciplinary proceedings are governed by the Judicial Discipline (Prescribed Procedures) Regulations 2006 (as amended). Applicable sanctions for misconduct include formal advice, a warning, reprimand, suspension or dismissal. A disciplinary investigation may be initiated by an individual complaint to the OJC or where the Lord Chancellor or the Lord Chief Justice receive information from any source that suggests that disciplinary proceedings might be justified, either may refer the matter to OJC for investigation. The OJC has received 45 complaints in relation to conflicts of interest during the past three years. One case led to disciplinary sanction. Disciplinary processes in Scotland and Northern Ireland are dealt with by the heads of the judiciary in each respective country.

136. Judicial office holders enjoy absolute functional immunity from civil and criminal liability in respect of their official activities. When not exercising judicial functions, judges are liable under civil, criminal and administrative law in the same way as any other citizen. Any criminal allegation against a judge would be dealt with through the criminal justice system. At the conclusion of the criminal proceedings the matter may be considered by the OJC to establish whether there should be a judicial disciplinary sanction.

137. The GET has no reason to doubt that the system to make the judiciary accountable is well construed and operates effectively. Individual judges are subject to a strong regime of internal accountability in respect of legal errors (i.e. maladministration, rather than on the merits of the case) and personal conduct. Very few complaints have been filed with the Office for Judicial Complaints (OJC) in relation to conflicts of interest of judges. The GET wishes to stress that all interlocutors, from the judicial profession as

⁴³ <http://epetitions.direct.gov.uk/petitions/20058>

well as from outside, referred to the commitment to the ethical and exemplary conduct which is characteristic of judicial office holders.

Advice, training and awareness

138. In a common law system judges come to their office after considerable experience as a solicitor or barrister – seldom less than 10 years. In the course of their professional legal practice they become familiar with the high standards of propriety expected of the judges before whom they appear. The authorities therefore consider that ethical standards are already part of the culture of any new judge upon appointment and are then reinforced by the contents of the Guide to Judicial Conduct. Advice on the issues covered by the Guide to Judicial Conduct can be obtained from officials or more senior judges. The Office for Judicial Complaints' website contains advice for the public and the judiciary in relation to judicial disciplinary matters. The Guide to Judicial Conduct is available to the judiciary and the public through the judiciary's website.

139. As part of their induction training new judges receive compulsory training in judicial conduct and ethics. The nature and extent of the training varies depending on the jurisdiction to which the new judge has been assigned but it generally covers the conduct expected of a judge both inside and outside the court or tribunal. The basis of the training is the Guide to Judicial Conduct itself. Judges do not receive compulsory continuing training in judicial conduct and ethics, though they may choose to attend the Judicial College's "Craft of Judging" seminar which contains a module devoted specifically to the subject.

140. The GET noted in the course of the interviews on-site a generalised view that because a judge comes from practice there is an inherent ability to cope with judicial work and to be fully familiarised with the applicable provisions on conduct and ethical behaviour. The statement of the authorities that for all practical purposes new judges know how to behave as a judge because they have been appearing before judges all their working lives is, in the GET's view, debatable even if not altogether unreasonable. Until recently, training requirements were limited to newly qualified members of the judiciary, and although training opportunities have now been intensified at all levels, very few courses have been organised in relation to ethics and there is no systematic approach to dealing with ethical issues when conceptualising training curricula. The GET also believes that better and more tailored guidance and counselling mechanisms on judicial conduct could be developed. In this connection, the interlocutors acknowledged no formal measures for guidance and advice were in place. The GET notes that some action in this regard has started in Scotland where training courses on ethics organised by the Judicial Studies Committee appear to be more developed and include practical exercises on conflicts of interest situations and the attitude and type of responses expected of and from judges⁴⁴. Finally, the GET notes that as the policy to increase diversity in the judiciary is effected, different perspectives may be brought into the system; the provision of consistent training on shared values and ethical standards in the judiciary seems pertinent in such a context of change. **GRECO recommends that the available guidance and counselling on judicial ethics be enhanced, in order to ensure that future training programmes include a systematic component on ethics, expected conduct, corruption prevention and conflicts of interest and related matters.**

⁴⁴ In Scotland, three-day refresher courses covering recent legal developments, and including a judicial ethics module, are offered four times per year.

V. CORRUPTION PREVENTION IN RESPECT OF PROSECUTORS

Overview of the prosecution service

141. The Crown Prosecution Service (CPS) was established by the Prosecution of Offences Act 1985 and is the principal public prosecution service for England and Wales. In January 2010, it merged with the Revenue and Customs Prosecution Office. The service is headed by the Director of Public Prosecutions (DPP) who is also the Director of Revenue and Customs Prosecutions. The DPP exercises his functions independently, subject to the superintendence of the Attorney General who is accountable to Parliament for the work of the prosecution service. The DPP is assisted by the Chief Executive who is responsible for running the business on a day-to-day basis, allowing the DPP to concentrate on prosecution, legal issues and criminal justice policy.

142. The CPS is divided into 13 geographical Areas across England and Wales. Each Area is led by a Chief Crown Prosecutor (CCP), who is supported by an Area Business Manager (ABM) and their respective roles mirror at a local level the responsibilities of the DPP and Chief Executive. Administrative support to Areas is provided by Area Operations Centres. A "virtual" 14th Area, CPS Direct, is also headed by a CCP and provides out-of-hours charging decisions to the police. Two specialist casework groups – the Central Fraud Group and the Serious Crime Group – deal with the prosecution of all cases investigated by the Serious and Organised Crime Agency, the UK Borders Agency and Her Majesty's Revenue and Customs as well as serious crime, terrorism, fraud and other challenging cases requiring specialist experience.

143. The Solicitors' Regulation Authority and Bar Standards Board are the regulatory bodies for prosecutors who are solicitors and barristers respectively. Prosecutors who are authorised by the DPP to present cases on behalf of the CPS in certain limited circumstances are known as Associate Prosecutors and are regulated by the Chartered Institute of Legal Executives (CILEX). Section 7A of the Prosecution of Offences Act 1985 sets out the statutory powers that Associate Prosecutors have.

144. Scotland and Northern Ireland have single independent prosecution services responsible for undertaking all criminal prosecutions. The Scottish Crown Office and Procurator Fiscal Service, headed by the Lord Advocate, are responsible for the investigation of crime and the police are obliged both by statute and common law to conduct investigations subject to the direction of the relevant Procurator Fiscal. The Lord Advocate is the head of the system of criminal prosecution in Scotland. His Deputy is the Solicitor General. The Scottish Law Officers are appointed by the Queen on the recommendation of the First Minister, with the agreement of the Scottish Parliament. Unlike other Scottish Ministers, however, they cannot be removed from office by the First Minister without the approval of the Parliament. In relation to criminal prosecutions the Scottish Law Officers have always acted independently of other Ministers and, indeed, of any other person. That duty is expressly set out in Section 48(5) of the Scotland Act 1998. In Northern Ireland, there is a Public Prosecution Service headed by the Director of Public Prosecutions.

Recruitment, career and conditions of service

Recruitment

145. Prosecutors are employed on a permanent (i.e. indefinite term) full time contract. The CPS recruits its prosecutors on merit through open competition and is audited annually by the National Audit Office to ensure it adheres to these principles. External vacancies are advertised on the CPS website in addition to specialist legal publications. Applicants are required to possess a valid practising certificate issued by the respective professional governing body for barristers or solicitors. Trained interview panels will

typically assess applicants for both external and internal legal vacancies via a short list exercise based on written applications. Those meeting the requirements for the job are invited to interview and are often required to participate in an assessment exercise (normally in the form of a legal case study) on which applicants are required to present their findings to the interview panel.

146. New prosecutors must be members of their respective professional body (solicitors or barristers) each of which has its own professional regulatory procedures including codes of conduct. Prior to appointment, the CPS human resources department carries out reference checks and, as part of the security clearance process for all CPS staff, criminal records checks are carried out. The CPS Departmental Security Unit also undertakes higher level checks on those posts in special case work areas. As part of the recruitment process, lawyers are required to answer a number of questions such as whether they have ever been the subject of a criminal or disciplinary inquiry or investigation, whether they have been subject to any inquiry or investigation under the financial statute, etc.

Career

147. The CPS uses a Performance Development and Review (PDR) process for managing the performance of its staff consisting of annual reviews to assess performance against existing objectives and agree to new ones, measure achievement of development objectives and identify new ones, and provide feedback on performance assessed against the requirements and expectations of the role holder. Performance assessment is a continuous process. As civil servants, prosecutors fall within the "mobile" grade of staff. Any transfers between Areas are done in consultation with the relevant Areas and the prosecutor him/herself.

148. Prosecutors can be dismissed by any CPS manager who has the appropriate level of authority set out in the Disciplinary and Managing Poor Performance and Managing Attendance policies once the appropriate processes have been followed. The level of authority normally required would be at least that of a Deputy Chief Crown Prosecutor or a member of the Senior Civil Service. Similar systems of recruitment, career progression and dismissal are in place in Scotland and Northern Ireland.

Conditions of service

149. The annual gross salary for a Crown Prosecutor commences at £29,648 (36,802 EUR) in London and £27,722 (34,411 EUR) nationally. In 2010 the Director of Public Prosecution's annual salary was in the range of £195,000 – £200,000 (242,000 to 250,000 EUR). In addition, those based in London receive a £3,000 (3,725 EUR) Recruitment and Retention Allowance. The annual salaries of prosecutors range between £20,837 (25,865 EUR) and £64,733 (80,350 EUR) in Scotland and, in Northern Ireland, the minimum salaries for a public prosecutor and a senior public prosecutor are £31,663 (39,300 EUR) and £41,661 (51,700 EUR) respectively.

150. The GET is satisfied with the legal and organisational conditions provided for prosecutors to carry out their functions. Detailed rules and procedures are in place to ensure that the recruitment, the promotion and the transfer of public prosecutors is carried out according to fair and impartial procedures. Disciplinary and grievance procedures are statutorily regulated and provide a sound basis for making fair and objective evaluations and to decide on misconduct, as well as providing mechanisms for the prosecutors concerned to seek independent and impartial review. The GET was not made aware during the on-site visit of any particular criticism from the relevant prosecution authorities as to the conditions of service, including remuneration/pension and tenure.

Case management and procedure

151. The CPS is in the process of changing its business processes from largely paper-based to digital processes which will provide a clear audit trail of the work undertaken and by whom. In addition, following criticism by the National Audit Office in relation to CPS efficiency in the magistrates' courts, the Optimum Business Model (OBM) was developed and has been implemented across all CPS Areas⁴⁵. Under the OBM, the majority of cases are now handled by teams, rather than individuals, with tasks managed and assigned by a Case Progression Manager. Some serious or complex cases may still be individually allocated to prosecutors and paralegal officers where it is important for one person to follow the case from charge through to trial and sentence (e.g. domestic violence, child abuse cases, youth cases etc.).

152. Although the prosecution service works closely with the police and other investigators, it is independent of them. Following an investigation, the police refer cases to the CPS for review in accordance with the Code for Crown Prosecutors. The police cannot direct prosecutors as to what the decision should be. In taking the decision to prosecute, prosecutors must fully apply the Code for Crown Prosecutors. Likewise, once proceedings are underway a prosecutor cannot be directed to dismiss a case. While there is no formal process for a prosecutor to appeal against his or her decision being overruled by a senior manager, if s/he continues to disagree with the action taken s/he is able to raise a grievance through the CPS grievance procedure.

153. The CPS must obtain the consent of the Attorney General (a member of the House of Commons and of the Government) to prosecute for certain types of offences. Offences falling under the new Bribery Act 2010 do not require the consent of the Attorney General; however, prosecutors must obtain the consent of the Director of Public Prosecutions. Furthermore, for cases before the Crown Court, a *nolle prosequi* (decision to stop a prosecution on indictment) can be issued by the Attorney General to terminate proceedings. However, this is an indefinite adjournment and not an acquittal and does not operate as a bar, discharge or an acquittal on the merits so the defendant can be indicted again. This power is not subject to any control by the courts. The Attorney General is answerable to Parliament for the exercise of this power but takes the decision independently of Government as a guardian of the public interest. Reportedly, this power is used sparingly in practice, usually to prevent oppression (for example because the defendant is seriously ill⁴⁶). A *nolle prosequi* is most likely to be requested by the defence but there are situations in which the prosecution may make an application rather than use one of the other methods of termination available to them.

154. Generally speaking, the Attorney General is not informed of, nor has any involvement in, the conduct of the vast majority of individual cases around the country and prosecution decisions are taken entirely independently by the prosecutors, save in exceptional circumstances where felt necessary to "safeguard national security". In July 2009, a Protocol was signed between the Attorney General and the Prosecuting Departments⁴⁷; it clarifies and explains the relationship between them. The Protocol stresses the exceptional nature of consent of the Attorney General in individual prosecution decisions. The possibility of direction when necessary to safeguard national security is to be used on a "most exceptional" basis and it does not prevent the DPP from taking a decision not to start or continue a prosecution or a Serious Fraud Office (SFO) investigation. If any such direction were made, the Attorney General is to make a report

⁴⁵ OBM has not yet been implemented in the Crown Court.

⁴⁶ In recent years, it was exercised once in a murder case where the defendant was terminally ill and had only weeks to live. In another, more controversial case, it was exercised to stop a prosecution of a judge who was thought to be medically unfit to stand trial.

⁴⁷ Protocol between the Attorney General and the Prosecution Departments (July 2009) <http://www.attorneygeneral.gov.uk/Publications/Documents/Protocol%20between%20the%20Attorney%20General%20and%20the%20Prosecuting%20Departments.pdf>

to Parliament, so far as is compatible with national security. The Protocol further enumerates the cases in which the Attorney General will not be consulted (i.e. prosecution decisions relating to Members of Parliament or Ministers, political parties or the conduct of elections, and any other case when a conflict of interest may arise). The GET acknowledges the steps taken to date to increase public accountability in an area which gave rise to specific concerns in the past; some of the positive measures taken in this respect were already recognised by GRECO in its First Round Compliance Report on the United Kingdom⁴⁸. It is pivotal that prosecution is, and is seen to be, independent and impartial; the public must clearly perceive that prosecutorial discretion is exercised on the basis of professional judgment and not subject to improper influence of a political nature.

155. In this connection, it would appear to the GET that case allocation to individual prosecutors follows well-defined, objective and impartial criteria. The GET was told that the Director of Public Prosecutions (DPP) and his/her subordinates, insofar as they are in charge of any particular case, are required to act and do act completely independently. The Crown Prosecution Service (CPS) is not, strictly speaking, under a legal obligation to prosecute all criminal cases that come to its attention (discretionary prosecution). In particular, in deciding whether or not to proceed with a case a double test is applied which requires the evaluation of the strength of the evidence (evidentiary test) and a judgement about whether an investigation and/or prosecution is needed in the public interest (public interest test). Decisions not to prosecute can be subject to judicial review, and even decisions to prosecute could exceptionally be subject to judicial review if there was evidence of dishonesty, bad faith or other exceptional circumstances.

Ethical principles and rules of conduct

156. As civil servants, prosecutors are subject to the Civil Service Code. They are also subject to the ethical codes of conduct set by the professional body to which they belong – the Law Society for England and Wales for solicitors and, for barristers, the Bar Council. In addition the CPS has its own Code of Conduct that applies to all CPS staff. The CPS Code of Conduct was produced by the CPS Human Resources Directorate (HRD) in November 2007. It was reviewed one year after it came into force and is now reviewed every two years. It provides for the standards all employees must meet in order to maintain and promote public confidence in the integrity of the CPS. Failure to comply with the standards set out in the Code of Conduct and the policies referenced in it, may result in action taken under the disciplinary procedure. Serious breaches of the Code may be deemed as gross misconduct and in accordance with the Disciplinary Policy may lead to summary dismissal. If employees observe any malpractice or breach of the Code of Conduct then they are able to report this via the CPS “Whistleblowing” policy, which is in keeping with legislation to protect employees acting reasonably and responsibly within the requirements of the Public Interest Disclosure Act.

157. Standards of conduct for all prosecutors working in Scotland are included in the Crown Office and Procurator Fiscal Service (COPFS) Staff Handbook. Prosecutors in Northern Ireland are subject to the ethical principles enshrined in the Public Prosecution Service (PPS) Code for Prosecutors and the PPS Code of Ethics. The aforementioned documents include similar rules to those applicable in England and Wales as regards conflicts of interest, gifts, etc. Whistleblowing policies have been developed in Scotland and Northern Ireland in recent years.

158. The GET wishes to stress that in common law jurisdictions such as the United Kingdom, the position of prosecutors is different from that in continental Europe. While in some countries of the civil law system prosecutors are placed in a special category akin to judges, it would be no exaggeration to say that in most common law countries judges

⁴⁸ [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoRC1\(2003\)8_UnitedKingdom_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoRC1(2003)8_UnitedKingdom_EN.pdf)

have little idea as to the internal operations of the prosecution system. For the most part, their knowledge is confined to what they may or may not have learnt as practising barristers acting for the prosecution in particular cases and what they see in front of them as judges sitting on the bench. If there is a perceived public interest in civil law jurisdictions that judges communicate with prosecutors, the exact opposite is the case in the common law countries. Although, strictly speaking, Scotland might not be regarded, as a common law system, broadly speaking, the relationship between prosecutor and judge in Scotland is similar to that of the other two UK jurisdictions. The practical implication is that, in any given criminal prosecution, the lawyer acting for the prosecution sits with and is treated no differently than or with any greater respect by the judge than the counsel for the defence.

159. One important consequence of the separation of judges and prosecutors to the present evaluation is that in the vast majority of cases – those where the advocate for the prosecution is a practising barrister or a practising solicitor – the ethical rules under which advocates act are those of their respective professional bodies. Indeed, it is the case that barristers who may be acting for the Crown in a prosecution one week may be acting for the defence in a different case the following week. This inter-changeability is not unlimited as a barrister or solicitor acting for the Crown might well have information that ethically precludes him or her from acting for the defence in some other case. No problems were detected or expressed during the on-site visit in this regard and it seemed to be fully accepted that adhering to the ethics of the legal professions and submitting to their disciplinary procedures satisfied all the ethical requirements of the criminal prosecution service. This may be due, in part, because the professional bodies regulate those who may practise in the legal professions and, in the event of any serious breaches, professional bodies may resort to depriving the professional from his/her practising certificate.

Conflicts of interest

160. The CPS Code does not give a list of conflicts of interest but defines a conflict of interest as anything whereby someone's personal life overlaps with their work or the work of the CPS and quotes such examples as being involved in an organisation that conducts business with the CPS or knowing someone personally who is involved in a case that the prosecutor is dealing with. The Code also notes that conflicts of interest can arise from financial interests and from official dealings with individuals who share their private interests (e.g. membership of clubs, societies and other organisations). The Code of Conduct requires any potential conflict of interest to be declared immediately to the Area/HQ Business Manager.

Prohibition or restriction of certain activities

Incompatibilities and accessory activities

161. It is possible to take up a second form of employment if prior written agreement has been obtained from the Area/HQ Business Manager. This employment can be paid or unpaid. The sole condition is that any additional employment must not conflict with the prosecutor's ability to perform their duties or with their role as a civil servant⁴⁹.

⁴⁹ In 2003 the then Attorney General and Lord Chancellor announced a revised policy in which restrictions on applications by CPS and Government lawyers were partially relaxed. In addition, CPS lawyers also became eligible for appointment as Deputy District Judges (Magistrates' Courts) provided they do not sit on CPS-prosecuted cases. The restriction was maintained to ensure compliance with Article 6 of the European Convention on Human Rights, which provides that litigants are entitled to be heard in front of an independent and impartial tribunal.

Recusal and routine withdrawal

162. Prosecutors must not knowingly participate in, or seek to influence, the making of a prosecution decision in regard to any case where their personal or financial interests or their family, social or other relationships would influence their conduct as a prosecutor. They should not act as a prosecutor or advise in cases in which they, their family or business associates have a personal, private or financial interest or association.

163. Prosecutors should draw to the attention of their line manager or their instructing prosecutor (if an external advocate) any potential conflict of interest of which they are aware which could be reasonably perceived as affecting their independent judgment in any case in which they are acting. It is possible to remove a prosecutor from a case by a line manager or another senior manager - if it is being handled by a single prosecutor - where there is a conflict of interest.

Gifts

164. With certain limited exceptions every offer of a gift and/or hospitality must be disclosed, whether or not it was accepted. All offers must be recorded in the Gifts and Hospitality Register, which has a prescribed format in the Code of Conduct. Offers must be recorded within five working days of receipt of the offer, regardless of its value and regardless of whether it is accepted, declined, returned or donated.

165. The Code allows "trivial" gifts to be accepted, such as inexpensive promotional diaries, pens, calendars etc. It is expected that gifts which are not "trivial" are generally declined. However, employees may be allowed to accept gifts with the permission of the Chief Crown Prosecutor or Deputy Director provided the retail value is no more than:

- £25 (30 EUR) for general items
- £50 (60 EUR) for gifts for a team, to be kept by the entire team
- £75 (90 EUR) for gifts from overseas governments or international organisations

166. Gifts that exceed the thresholds stated above, that are impossible to decline, e.g. where declining the gift is likely to cause major offence, may be accepted on behalf of the CPS and then donated to charity or they can be raffled at the end of the year to raise funds for a charity. Where it is impractical to decline or return a perishable gift (or to donate it to a charity) goods may be kept by the CPS to be shared with employees at a suitable gathering (for example at a pre-Christmas party gathering or a lunchtime briefing session). Employees are not permitted to make use of such goods solely for their own use and therefore the raffling or distribution of gifts to staff and their family is not permitted.

Post-employment restrictions

167. Like other civil servants, prosecutors are subject to the Business Appointment Rules for any employment taken immediately after leaving the CPS. These provide for the on-going scrutiny of some types of appointments which former civil servants may wish to take up in the first two years after they leave the service. When the prosecutor leaves the CPS they must supply full details of the proposed employment and details of any previous official dealings with the prospective employer.

Third party contacts, confidential information

168. The Official Secrets Act 1989, which needs to be read in conjunction with the duties of confidentiality on civil servants, applies to all CPS staff. Accordingly, staff are bound to protect certain categories of official information (i.e. concerning security

intelligence, defence, international relations and information impacting crime and special investigative powers) acquired through official duties which cannot be disclosed to any unauthorised person or authority. Breaches of the Official Secrets Act constitute a criminal offence punishable by up to 2 years imprisonment or/and fines.

169. In addition, the CPS Code of Conduct deals with confidentiality and requires prosecutors to avoid inappropriately disclosing or misusing confidential information about Ministers, staff, contractors, individuals involved in a case, or other organisations working with the CP. Breaches of confidentiality are dealt with under the CPS disciplinary procedure. The Code also helpfully refers to the CPS Whistleblowing Policy which is designed to ensure that staff know how raise a concern about a serious risk or wrongdoing (including a breach of the Code), with whom (internally and externally) and how to seek advice if they are unsure about what to do. This is in line with the UK's Public Interest Disclosure Act.

Declaration of assets, income, liabilities and interests

170. The CPS places the onus on the individual to declare any interests/financial assets or incomes. Therefore, apart from disclosure requirements set for gifts, secondary and post-employment and conflict of interests, there is no legal requirement for regular declaration of assets, income and liabilities. In Scotland, there is a register of financial interests for senior civil servants (including, therefore, senior prosecutors), where all financial interests, whether conflicting or not, must be disclosed.

171. The GET positively values the existing rules on conflicts of interest which are applicable to prosecutors, both as regular civil servants (civil service codes) and as members of the profession (prosecution service codes and legal professional codes). The GET notes that, with the exception of senior prosecutors in Scotland, there is no obligation for prosecutors to register their interests. Bearing in mind that no concerns have been come to light as to instances of corrupt behaviour or conflicts of interest by prosecutors (other than rare individual cases), or even the perception of there being so, and, given the requirement for immediate declarations of potential conflicts of interest to the area manager, the GET does not deem it necessary to issue a recommendation concerning the registration of financial interests.

Supervision and enforcement

172. Non-criminal misconduct of prosecutors is dealt with under the CPS disciplinary procedure. In this context, in most cases where misconduct requires formal disciplinary action this will be dealt with by local line management, unless the outcome of the case results in dismissal and they do not have the required level of authority. Possible outcomes of a disciplinary hearing are: no warning, written warning, final written warning, action short of dismissal or dismissal. An employee who receives a disciplinary sanction has the right to appeal within ten days and a right to appeal to an external employment tribunal. Statistics are collated concerning professional negligence, misconduct and related inappropriate behaviour.

173. If, following a police investigation, it is decided to refer a case involving a prosecutor, the case will be handled by one of the specialist Central Casework Divisions that deals with Special Crime. Criminal proceedings against prosecutors are no different than for any other defendant and they are not subject to any special criminal proceedings or immunities as a result of their position. Similar arrangements are in place in Scotland and Northern Ireland.

174. As already indicated above (see paragraph 150), the GET takes the view that the disciplinary procedure in cases of misconduct of prosecutors is adequate. Prosecutors are subject to strict and clear-cut rules on conduct that form part of their conditions of

service. Breaches are subject to disciplinary action including dismissal. Internal appeal channels are in place and external legal appeal mechanisms are available.

Advice, training and awareness

175. Prosecutors were made aware when admitted to their respective professional bodies of the various codes of conduct to which they are subject. As part of the induction process on joining the CPS, prosecutors should be informed by their managers of their obligations under the Civil Service Code, the Official Secrets Act and the CPS Code of Conduct. Moreover, information and guidance is readily available on the CPS internal websites, outlining the organisation's policies with respect to these issues. In addition, human resources advisors and line managers are able to provide further advice.

176. Scottish prosecutors receive training on ethics, expected conduct, prevention of corruption, conflicts of interest and related matters as part of their LLB (law degree) and the Diploma in Legal Practice (a requirement of being a qualified solicitor). In addition, there are courses dealing with ethics which are run by the Crown Office and Procurator Fiscal Service at the Scottish Prosecution Office. In Northern Ireland, no formal training is provided in these specific areas except for prosecutors who are invited to participate from time to time in optional case management workshops (taking place for an hour and a half in the evenings), which cover the proper conduct of cases coming before them.

177. It is obvious from the information above that training on ethics for prosecutors is rather limited. The current awareness raising activities are merely confined to induction modules. With regard to advice services, this task is allocated to line managers. The traditional supervision by superiors and the initial training dispensed to new recruits is, in the GETs view, too limited in scope; much more can be done in this area. Ethical values change over time and need continued attention. Codes of conduct are living documents and all prosecutors, not only new recruits, must be involved in furthering the ethical development of the prosecution services; in this connection, inspiration is likely to arise from practical cases presented and tested during regular in-service training sessions. **GRECO recommends that regular in-service training on ethics for prosecutors be introduced.**

VI. RECOMMENDATIONS AND FOLLOW-UP

178. In view of the findings of the present report, GRECO addresses the following recommendations to the United Kingdom:

Regarding members of Parliament

- i. that, pending any introduction of an accountability system for staff conduct, it should be made clear that Members of the House of Commons and Members of the House of Lords can be responsible for the conduct of their staff when carrying out official duties on behalf of the Member and that, unless otherwise specified, the conduct of the staff should be judged against the standards expected of the Members. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraph 33);**
- ii. that consideration be given to lowering the thresholds for reporting financial holdings (such as stocks and shares). The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraph 41);**
- iii. (i) providing clearer guidance for Members of the House of Commons and the House of Lords concerning the acceptance of gifts, and (ii) that consideration be paid to lowering the current thresholds for registering accepted gifts. The devolved institutions of Scotland, Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraph 46);**
- iv. that the Codes of Conduct and the guidance for both the Commons and the Lords be reviewed in order to ensure that the Members of both Houses (and their staff) have appropriate standards/guidance for dealing with lobbyists and others whose intent is to sway public policy on behalf of specific interests. The devolved institutions of Wales and Northern Ireland should be invited similarly to take action in accordance with the recommendation (paragraph 53);**
- v. (i) reviewing the available disciplinary sanctions for misconduct of Members of the House of Commons and Members of the House of Lords in order to ensure that they are effective, proportionate and dissuasive; and (ii) better describing in the relevant guidance to the Codes of Conduct the applicable sanctions for breaches of the rules (paragraph 73);**

Regarding judges

- vi. in order to ensure security of tenure for judicial office holders, that the number of fee-paid judges is reviewed with a view to reducing it in favour of salaried judges, particularly at first in relation to the High Court and district level (paragraph 106);**
- vii. that the available guidance and counselling on judicial ethics be enhanced, in order to ensure that future training programmes include a systematic component on ethics, expected conduct, corruption prevention and conflicts of interest and related matters (paragraph 140);**

Regarding prosecutors

viii. that regular in-service training on ethics for prosecutors be introduced (paragraph 177).

179. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the United Kingdom to submit a report on the measures taken to implement the above-mentioned recommendations by 30 April 2014. These measures will be assessed by GRECO through its specific compliance procedure.

180. GRECO invites the authorities of the United Kingdom to authorise, at its earliest convenience, the publication of this report.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its 49 member states with the Council of Europe’s anti-corruption instruments. GRECO’s monitoring comprises an “evaluation procedure” which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment (“compliance procedure”) which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.
