



## BRIEFING PAPER

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# Resignation from the House of Commons

By Edward Hicks

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## Summary

Under a Resolution of the House of Commons of 2 March 1624, Members of Parliament cannot directly resign their seat. There are several ways by which a Member's seat may be vacated during the lifetime of a Parliament:

- A Member wishing to resign their seat will be appointed to one of two offices of the Crown – Crown Steward and Bailiff of the Chiltern Hundreds or Crown Steward and Bailiff of the Manor of Northstead.
- A Member may die.
- A Member may be subject to a successful recall petition under the terms of the [Recall of MPs Act 2015](#).
- A Member may be expelled by resolution of the House.
- A Member may be disqualified by becoming a Member of the House of Lords.
- A Member may be disqualified by becoming a Police and Crime Commissioner, or a Member of the National Assembly for Wales, the Northern Ireland Assembly, or a non-Commonwealth legislature (except the Houses of the Oireachtas of the Republic of Ireland).
- A Member may be disqualified by being sentenced to be imprisoned or detained indefinitely for more than a year in the United Kingdom, Isle of Man, the Channel Islands, or the Republic of Ireland; or if they are convicted of treason.
- A Member may be disqualified, either by the voiding of the Member's election
- A Member may under certain circumstances be disqualified for bankruptcy.
- A Member may accept one of a number of offices which are incompatible with membership of the House of Commons.

A Member who wishes to resign their seat must be appointed to one of two offices of the Crown, retained from antiquity for this purpose only. These are the Crown Steward and Bailiff of the Chiltern Hundreds and the Crown Steward and Bailiff of the Manor of Northstead. Other such offices have been used for this purpose in the past, and some of them have carried duties and salaries: this is not the case today. This process is often described as "taking the Chiltern Hundreds".

In the past, Ministers were required to re-contest their seats following their appointment as ministers. This was in recognition of the possibility that being a Minister of the Crown – i.e. holding an office provided by the monarch – might constitute a conflict of interest with the duties of a Member of Parliament. This practice has now been discontinued.

Members who are recalled can contest the subsequent by-election. A Member who has taken an incompatible office can also stand if they resign the office. A Member whose election is voided may be permitted to stand, depending on how the election was voided.

This briefing paper details the purposes of the Chiltern Hundreds, the case of Gerry Adams, and debate about possible reforms. It discusses the historical background of Members resigning their seats and of Offices of profit under the Crown. It also summarises the other ways in which Members' seats can be vacated.

# 1. The purpose of the Chiltern Hundreds and the Manor of Northstead

If a Member wishes to resign their seat, they have to be appointed to either the Chiltern Hundreds or the Manor of Northstead. These are ancient offices of profit appointed by the Crown. In full, the offices are entitled “Crown Steward and Bailiff of the three Chiltern Hundreds of Stoke, Desborough and Burnham”, and “Crown Steward and Bailiff of the Manor of Northstead”. As holding either office is incompatible with membership of the House, accepting either office leads to the forfeiture of a Member’s seat. Whilst both offices were of local significance several centuries ago, today they exist on paper only and have no function other than as a route to resignation from the House of Commons.<sup>1</sup>

A list of Members granted the offices is available in Library Standard Note [SN/PC/04731](#). A list is also available of Members who from 1910 to 2011 were disqualified by virtue of accepting other incompatible offices, those unseated by election petitions, and those expelled.<sup>2</sup>

## 1.1 Current procedure

If a Member indicates that they wish to resign, the Chancellor of the Exchequer grants either the Chiltern Hundreds or the Manor of Northstead by means of a written warrant, in the presence of a witness. The Member retains the position until the Chancellor appoints another applicant or until the holder applies for release from it. Every new warrant issued revokes the previous holder. It is usual to grant the offices alternately, as this enables two Members to retire at the same time.

The custom of using the Chiltern Hundreds is believed to have originated around 1750,<sup>3</sup> whilst the first recorded use of the Manor of Northstead for this purpose is by Patrick Chalmers, in 1844. Since 1850, applications have been registered and retained in the Treasury. On the day the warrant is signed a letter is sent to the Member, omitting the letters MP after their name, to inform them that they have been appointed to the office. Letters of notification are also sent at the same time to the Office of the Speaker, and the Government and opposition whips. The appointment is noted in the London Gazette, and the Treasury issues a brief press notice. The disqualification of a Member because of his/her new office is recorded in the Votes and Proceedings, although there are no proceedings in the House, and it is not recorded in Hansard.

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<sup>1</sup> [Erskine May 25<sup>th</sup> edition p.37](#)

<sup>2</sup> See written evidence from the [Clerk of the House to the Political and Constitutional Reform Committee Recall of MPs HC 373 2012-13 Ev63-Ev75](#)

<sup>3</sup> See Norman Wilding and Philip Laundry, *An Encyclopedia of Parliament*, Cassell, London, 1971, p116

If a Stewardship is granted during a recess, the new writ for a by-election cannot be issued until the House meets again. If it is granted during the session, a writ for a by-election can be moved immediately after the Chancellor of the Exchequer has signed the warrant of appointment. Traditionally, this has been moved by the party of the Member who has resigned.<sup>4</sup>

Occasionally, Members have resigned their seats and then fought the ensuing by-election. They resign the office granted to them before standing for election. The Duchess of Atholl was one early example of this practice, losing the subsequent by-election in 1938. On 17 December 1985, fifteen Unionist MPs resigned in protest against the Anglo-Irish Agreement, and sought re-election on the basis of their opposition to it: all but one were re-elected. Bruce Douglas-Mann resigned his seat in 1982 on his defection from Labour to the SDP, and sought re-election under his new party label: the Conservatives won the seat. David Davis sought re-election in 2008 in protest against the erosion of civil liberties in the UK. Labour and the Liberal Democrats did not oppose him in the by-election, and he held the seat. In 2014, Douglas Carswell and later Mark Reckless sought re-election in their constituencies after they joined the UK Independence Party. Both were re-elected.

## 1.2 Ministerial office

Section 26 of *The Act for the Security of Her Majesty's Person and Government 1707* had disqualified Ministers, on first accepting office or moving between office. This meant they had to stand for re-election. This provision derived from the concern that accepting an office from the Crown would lead the accepting Member towards loyalty to the monarch against Parliament. By the mid- to late 19<sup>th</sup> century, Parliament's established supremacy ensured that this was no longer a real concern. A clause in the *Representation of the People Act 1867* removed the need for Ministers to be re-elected when moving between ministerial offices. The *Re-election of Ministers Act 1919* made re-election unnecessary within nine months of a general election, and the principle was finally abolished in the *Re-election of Ministers Act 1926*.

## 1.3 Gerry Adams

A controversy took place in early 2011 when Gerry Adams, the leader of Sinn Féin, indicated he wished to resign from his seat of West Belfast by sending a letter to the Speaker. A Treasury statement on the 26 January 2011 stated that he had been appointed to the Manor of Northstead.<sup>5</sup> In the House of Commons on that day, the Prime Minister stated that Mr Adams had 'accepted' the office:

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<sup>4</sup> As Sinn Féin members never take their seats, this was not possible when Gerry Adams was appointed as Steward and Bailiff of the Manor of Northstead in 2011. On that occasion, the Chief Whip, Patrick McLoughlin, moved the writ in May 2011. The same practice was followed when other Sinn Féin members were appointed in 2013 and 2018.

<sup>5</sup> See <https://www.gov.uk/government/news/manor-of-northstead> for details.

## 6 Resignation from the House of Commons

Mr Nigel Dodds (Belfast North) (DUP): The Prime Minister may be aware that one of the Members elected to this House has decided to emigrate, and he may want to chalk that up as one of his achievements. The hon. Member for Belfast West (Mr Adams) seems to be extremely embarrassed about applying for an office for profit under the Crown although he has shown no such embarrassment in profiting from his office in this House for many years at taxpayers' expense....

The Prime Minister: First of all, just in case everyone has not caught up with the news, the right hon. Gentleman is quite right that the hon. Member for Belfast West has accepted an office of profit under the Crown, which is of course the only way to retire from this House. I am not sure that Gerry Adams will be delighted to be a Baron of the Manor of Northstead, but none the less, I am pleased that tradition has been maintained...<sup>6</sup>

Mr Adams then released a statement saying:

The only contact I have had with the British Parliament is a letter I posted to them last Thursday. That letter said: "A chara, I hereby resign as MP for the constituency of West Belfast. Go raibh maith agat. Gerry Adams"

When I was told of the British Prime Minister's remarks today this was the first I heard of this development. I understand Mr. Cameron has claimed that 'the Honourable Member for West Belfast has accepted an office for profit under the Crown.'

This is untrue. I simply resigned. I was not consulted nor was I asked to accept such an office. I am an Irish republican. I have had no truck whatsoever with these antiquated and quite bizarre aspects of the British parliamentary system....

Mr. Cameron's announcement that I have become Crown Steward and Bailiff of the Manor of Northstead, wherever that is, is a bizarre development. I am sure the burghers of that Manor are as bemused as me. I have spoken to the Prime Minister's Private Secretary today and he has apologised for today's events.<sup>7</sup>

As a result of the controversy, the relevant passage in *Erskine May* now states that the former Member 'is appointed' to the offices, instead of the previous text which stated that s/he 'accepts office'.<sup>8</sup>

Subsequently two other Sinn Fein MPs have resigned from the House of Commons in 2013 and 2018, and have been appointed in the same manner.<sup>9</sup>

### 1.4 Possible reforms

The Gerry Adams controversy did result in a few Members proposing changes to the system. On 26 January 2011 several Members asked the Speaker to clarify the situation as to whether a Member had to request one the offices. A concern was raised that the reworded description of Members being 'appointed' could lead to the Chancellor of the

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<sup>6</sup> [HC Deb 26 January 2011 c290](#)

<sup>7</sup> See <http://www.sinnfein.ie/contents/19972>

<sup>8</sup> [Erskine May 25<sup>th</sup> edition p.37](#). See also *Erskine May* 24<sup>th</sup> edition (2011) p.39 and 23<sup>rd</sup> edition (2004), p. 57 respectively.

<sup>9</sup> See '[Manor of Northstead: James McGuinness](#)', HM Treasury Press Release, 2 January 2013; '[Three Hundreds of Chiltern: Barry McElduff](#)', HM Treasury Press Release, 16 January 2018.

Exchequer appointing somebody without an express request. David Winnick suggested that the Procedure Committee should look into the matter, as part of modernising the House of Commons.<sup>10</sup> On 27 January 2011 Hilary Benn asked the then Leader of the House of Commons Sir George Young:

Does the Leader of the House agree that it is time we changed these ancient ways of enabling Members to step down and moved to a simple system whereby a Member can write to you, Mr Speaker, to resign?<sup>11</sup>

In a Westminster Hall debate on 3 February 2011 Mike Weir called the current process “absolute nonsense”.<sup>12</sup>

Responding to Benn’s question, Sir George Young, then the Leader of the House of Commons, began by dealing with the argument about an appointment being made without a formal request:

I find it inconceivable that such a situation would occur; it is a matter of constitutional principle that a Chancellor does not act without an unambiguous request from a Member to relinquish his or her seat. In this case [Gerry Adams], that request was a letter of resignation. In addition, there is a protection in the form of provision in the 1975 Act for a Member not to accept any office that would lead to his or her disqualification. I have to say in response to the right hon. Gentleman’s [Hilary Benn] final point on the matter that this law on resignation from the House has served us well for 260 years—and the Government have no plans to change it.<sup>13</sup>

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<sup>10</sup> [HC Deb 26 January 2011 cc404-407](#)

<sup>11</sup> [HC Deb 27 January 2011 cc447-448](#)

<sup>12</sup> [HC Deb 3 February 2011 c363WH](#)

<sup>13</sup> [HC Deb 27 January 2011 c449](#)

## 2. Historical context

Prior to the 18<sup>th</sup> century, serving in Parliament was often regarded as an obligation to be accepted reluctantly, rather than an honour to be eagerly sought. Voluntarily relinquishing a seat was not, therefore, something to be encouraged. Additionally, before the sixteenth century, it was very rare for a parliament to sit for longer than a few weeks, so a procedure for resignation was hardly necessary.

A resolution passed by the House on 2 March 1624<sup>14</sup> prohibits MPs from resigning their seats. It states simply "...that a man, after he is duly chosen, cannot relinquish." Prior to that date resignation was, in theory, not permitted. Requests for Members or their constituencies to be discharged from service, due to their being terminally ill or being too infirm to attend, were sometimes accepted and sometimes rejected.<sup>15</sup> Five men were permitted to resign on ill-health grounds between 1604 and 1629, most of them in 1610. The absence of Members abroad on royal business was often used to apply for resignation, but this was hardly ever successful, with the exception for service in various posts in Ireland.

As mentioned above, it was historically recognised that accepting a paid office of the Crown was incompatible with membership of the House of Commons. Such offices carried payment, and a Member who was receiving a salary from the Crown could not be expected to scrutinise the actions of the Crown or the Crown's government. A resolution of 30 December 1680 was worded as follows:

Resolved, Nemine contradicente, That no Member of this House shall accept of any Office, or Place of Profit, from the Crown, without the Leave of this House, or any Promise of any such Office, or Place of Profit, during such time as he shall continue a Member of this House.

Resolved, That all Offenders herein shall be expelled this House.

This was reiterated in an Act of Parliament in 1707, which also established the principle that a Member deprived of their seat in this way had the right to stand again for election:

If any person being chosen a Member of the House of Commons, shall accept of any Office of Profit from the Crown, during such Time as he shall continue a Member, his Election shall be, and is hereby declared to be void, and a new Writ shall issue for a new Election, as if such Person so accepting was naturally dead. Provided nevertheless, that such Person shall be capable of being again elected, as if his Place had not become void as aforesaid.<sup>16</sup>

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<sup>14</sup> This resolution appears in the Commons Journals dated 2 March 1623. However, the practice in the seventeenth-century was to take the start of the year as 25 March rather than 1 January

<sup>15</sup> See for example on 11 November 1558 "Where Suit is made that some Burgesses, being sick, might be removed, and Writs for other in their Places; this House doth resolve, that they shall not be amoved [i.e. removed], notwithstanding their Sickness." [Journal of the House of Commons, Vol. 1, p.51.](#)

<sup>16</sup> *Act for the Security of Her Majesty's Person and Government* (6 Anne c.7), 1707, s.26



In 1740, Sir Watkin Williams Wynn asked the House to decide whether he had vacated his seat by inheriting the stewardship of the lordship and manor of Bromfield and Yale from his father. The House decided that, by accepting the appointment (together with the annual salary which went with it), he had automatically vacated his seat. Possibly as a result, the *House of Commons Disqualification Act 1741* set out a number of offices which were incompatible with membership of the House (and a small number which were not). This was repeated under the *House of Commons (Vacation of Seats) Act 1864*.

A select committee report of 1894 states the following:

It may possibly have been the attention called to Sir W. W. Wynn's case, together with the repeated enquiries into the number of "Place men" in the House, resulting in the passing of the Place Act of 1742, that first originated the idea of utilising the appointment to certain Crown stewardships for the sole purpose of enabling Members to vacate their seats.<sup>17</sup>

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<sup>17</sup> House of Commons, Select Committee on House of Commons (Vacating of Seats), HC 278, 1894, p.56

## 3. Offices of profit

### 3.1 The Chiltern Hundreds

The Hundreds of Stoke, Desborough and Burnham are in the historic county of Buckinghamshire, and include the towns of Amersham, Beaconsfield, High Wycombe, Marlow, Eton and Chesham. They extend from the border of Greater London (formerly Middlesex), west across most of the county and from the Hertfordshire border to the Thames. The Hundreds belonged to the Crown as early as the 13th century and were administered as a Royal bailiwick (run on behalf of the Crown). There was another Royal bailiwick of the Chiltern Hundreds, this being the four and a half hundreds of Binfield, Langtree, Lewknor, Pirton and Ewelme in Oxfordshire. During the 17<sup>th</sup> century, 100 years after any records of their actual administration cease, the office of Steward became divorced from any former actual duties, and ceased to enjoy any revenues from the area.

The Stewardship of the Chiltern Hundreds is thought to have been used for the first time as a means of resignation from the House of Commons on 17 January 1751 by John Pitt, who wanted to vacate his seat for Wareham and stand for Dorchester. In October 1750, Pelham wrote to William Pitt "I find Jack Pitt is very anxious about quitting his seat in Parliament in order to be chosen at Dorchester. You know the only difficulty. I have assured him I will do my best when the King comes over ... I hope, when I can speak myself, it will do. I must beg you to make him easy".<sup>18</sup> The King did indeed grant him the Stewardship, and John Pitt was later returned unopposed for Dorchester.

### 3.2 Manor of Northstead

The Manor of Northstead consisted of a number of fields and farms in the parish of Scalby in the North Riding of Yorkshire. By 1600 the main property of this manor was described as "an old chamber ... a low house under it, unfit for habitation. Sir Richard Cholmley's shepherd dwelt there until it fell down."<sup>19</sup>

### 3.3 Controversy

In 1861-62, there was some controversy about both offices. The then Prime Minister, William Gladstone, evidently favoured the possibility of straightforward resignation, as he was worried about the honour then still perceived to be conferred by the appointment. He thought people such as Edwin James, who had been appointed to the Chiltern Hundreds after he had fled to America owing £10,000, unworthy of the title. This led to a re-working of the letter of appointment to omit any reference to the Stewardship being a matter of honour.

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<sup>18</sup> [Biography of John Pitt](#), History of Parliament 1715-1754,

<sup>19</sup> See ed. William Page, [A History of the County of York \(North Riding\)](#), Victoria County History, 1923, p.476-483.

### 3.4 Refusal to appoint

There have been cases where individuals were refused the offices. In 1775 Nathaniel Bayly's request was rejected by the Prime Minister Lord North, because Bayly wished to oppose a government candidate in a by-election at Abingdon. Subsequently a bill was introduced by George Grenville (Prime Minister 1763-65) to permit MPs to vacate their seats, which was defeated by 173 votes to 126.<sup>20</sup>

The last person to be refused either office was Viscount Chelsea, who was refused the Chiltern Hundreds in 1842. This was due to suspicions that money had changed hands to influence the result of the by-election which would have followed his appointment.<sup>21</sup>

### 3.5 Other offices of profit

Other nominal offices of profit under the Crown have included the Stewardships of the Manors of Old Shoreham, East Hendred, Poynings and Hempholme, last used in 1799, 1840, 1843 and 1865 respectively. Further details of these offices can be found in the 1894 Select Committee report.<sup>22</sup>

Stewardships of Otford, Kennington, Shippon and Berkhamstead were granted during the 18<sup>th</sup> century in order to enable Members to resign from Parliament, but it is likely that each of these was a real and not a nominal office.<sup>23</sup> East Hendred and Poynings were active offices (i.e. they had duties and salary attached – unlike the Chiltern Hundreds, which lost its duties and payment in the late 17<sup>th</sup> century, and Northstead, which appears never to have had either). East Hendred, Hempholme, and Old Shoreham were sold by the Crown in the early 19<sup>th</sup> century and hence became unavailable for Parliamentary use.

In the Irish Parliament, two other offices, the Escheatorships of Munster and Ulster, were used as laid down by an Act of 1793; after the Union, these continued in the Westminster Parliament, under an Act of 1801. In these cases, appointment was made by Letters Patent under the Great Seal by the Lord Lieutenant of Ireland. These offices lapsed after the 1830s, though Munster was nevertheless mentioned in section 4 of the *Elections of Members during Recess Act 1858*.

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<sup>20</sup> *Cobbett's Parliamentary History of England*, Vol. 18 cc.412-421.

<sup>21</sup> See [HC Deb 6 August 1842, cc.1102-11](#). The debate includes accusations that "Lord Chelsea was bound to vacate his seat, and to obtain it for another person, or he was liable to the forfeiture of £2,000", and "It was acknowledged that the electors of Reading were represented by a gentleman who had obtained his seat by improper means".

<sup>22</sup> House of Commons, *Select Committee on House of Commons (Vacating of Seats)*, HC 278, 1894, pp.54-7

<sup>23</sup> House of Commons, *Select Committee on House of Commons (Vacating of Seats)*, HC 278, 1894, p.57

## 4. Other ways Members' seats can be vacated

### 4.1 Introduction

There are several other ways by which a Member's seat may be vacated during the lifetime of a Parliament:

- A Member may die.
- A Member may be subject to a successful recall petition under the terms of the [Recall of MPs Act 2015](#).
- A Member may be expelled by resolution of the House.
- A Member may be disqualified by becoming a Member of the House of Lords.
- A Member may be disqualified by becoming a Police and Crime Commissioner, or a Member of the National Assembly for Wales, the Northern Ireland Assembly, or a non-Commonwealth legislature (except the Houses of the Oireachtas of the Republic of Ireland).
- A Member may be disqualified by being sentenced to be imprisoned or detained indefinitely for more than a year in the United Kingdom, Isle of Man, the Channel Islands, or the Republic of Ireland; or if they are convicted of treason.
- A Member may be disqualified by the voiding of the Member's election
- A Member may under certain circumstances be disqualified for bankruptcy.
- A Member may accept one of a number of offices which are incompatible with membership of the House of Commons.

### 4.2 Recall Petitions

A recall petition is triggered if one of three conditions is met:

- If they are convicted in the UK of an offence and sentenced or ordered to be imprisoned or detained and all appeals have been exhausted (and the sentence does not lead to automatic disqualification from being an MP);
- If they are suspended from the House following a report and recommended sanction from the Committee on Standards for a specified period: suspension of at least 10 sitting days, or at least 14 days if sitting days are not specified.
- If they are convicted of an offence under section 10 of the [Parliamentary Standards Act 2009](#) (making false or misleading Parliamentary allowances claims).

Once a recall petition is open it is available for signing for six weeks. If 10% of eligible registered voters sign the petition the seat is vacant, and a by-election ensues.

Further information is available in the House of Commons Library briefing on [Recall elections](#).

### 4.3 Expulsion of Members

Expulsion by resolution of the House is now a rare procedure. This last occurred with the expulsion of Peter Baker in 1954, following his being sentenced to seven years' imprisonment for fraud.

### 4.4 Peerage

A Member can be disqualified if they become a Member of the House of Lords. The last occasion when this happened was when George Robertson became a Member of the House of Lords on the 24 August 1999.

### 4.5 Dual mandate holders

Members who are simultaneously holders of a post in a different legislature are called 'dual mandate holders'. Previously a number of Members of Parliament have simultaneously been members of the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, or the European Parliament.<sup>24</sup> Many Members have continued as local councillors after being elected to the House of Commons. Similarly, there is no requirement for Members who become elected mayors to resign their seats (e.g. Dan Jarvis, 2018); although most have chosen to do so (e.g. Boris Johnson, 2008; Sir Peter Soulsby, 2011). It is a requirement for those elected in Police and Crime Commissioner elections to vacate their seats as an MP (see [Section 4.9](#)).

In 2014 a ban was introduced on holding a dual mandate with the National Assembly for Wales, under Section 3 of the [Wales Act 2014](#) (unless an existing AM is elected an MP within 372 days of an expected Assembly election). Similarly, under Section 3 of the [Northern Ireland \(Miscellaneous Provisions\) Act 2014](#) dual mandates with the Northern Ireland Assembly were banned entirely. In either case Members have eight days to choose which seat they wished to retain.

The European Parliament now requires any MEP serving in a national parliament to resign as an MEP. This rule was first introduced in 2004 with limited derogation for serving MEPs until 2009. The first UK MEP to vacate her European Parliamentary seat it was Caroline Lucas, following her election as MP for Brighton Pavilion in 2010.

The *House of Commons Disqualification Act 1957* had disqualified from membership of the House of Commons those who were Members of non-Commonwealth legislatures. This clause was repeated in the [House of Commons Disqualification Act 1975](#). This in turn was amended in 2000 to permit members of the Houses of the Oireachtas in the Republic of Ireland to sit in the House of Commons.<sup>25</sup>

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<sup>24</sup> See the Library's Parliamentary Information List [MPs and Peers with Dual Mandates](#), [SN/PC/04101](#).

<sup>25</sup> They had been eligible before 1957. See *Erskine May* 18<sup>th</sup> edition p.43.

Further information can be found in the House of Commons Library briefing paper [Members of Parliament holding dual mandates](#).

### 4.6 Imprisonment and Treason

Under the [Representation of the People Act 1981](#) a Member can be disqualified if they are sentenced or ordered to be imprisoned or detained indefinitely within the United Kingdom, the Isle of Man, the Channel Islands, or the Republic of Ireland for more than one year. If they are already a Member, their seat is vacated. A Member convicted of treason under the [Forfeiture Act 1870](#) are disqualified from sitting or voting in either House

### 4.7 Election Petitions

It is also relatively rare for Members to be unseated as a result of election petitions. The most recent example of this happening is Phil Woolas in 2010.<sup>26</sup> Prior to Mr Woolas, Mark Oaten was unseated in 1997, but won the subsequent by-election. Fiona Jones was disqualified in 1999 for election offences, but this was overturned on appeal and she retained her seat. Before this, the most recent instance of an election court overturning an election was that of Frank Gray in 1924.

Further information can be found in the House of Commons Library briefing paper on [Parliamentary election petitions](#).

### 4.8 Bankruptcy

A Member can be disqualified in certain circumstances for bankruptcy. Under [Section 426A](#) of the Insolvency Act 1986 a Member who has had a bankruptcy restrictions order effected against them in England or Wales is disqualified. The [Tribunals, Courts and Enforcement Act 2007](#) (Schedule 20, Paragraph 12) added having a debt relief restrictions order effected against a Member as further grounds of disqualification. This section was extended to Northern Ireland in 2012 by [Statutory Instrument 2012/1544 \(Article 3\)](#).

Under [Section 427](#) of the Insolvency Act 1986 a Member against whom a sequestration of estate has been awarded in Scotland, is disqualified if the award remains in place after six months. A sitting Member being so disqualified would cause their seat to be vacated.<sup>27</sup> The last Member disqualified for bankruptcy was Cornelius Homan in 1928.<sup>28</sup>

### 4.9 Incompatible Offices

Acceptance of certain paid offices (e.g. a judge) disqualified a person from sitting and voting in the Commons. If they were already a Member, they lose their seat with immediate effect.<sup>29</sup> The last Member

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<sup>26</sup> See House of Commons Library Standard Note 5751 [Election Petition Oldham East and Saddleworth](#)

<sup>27</sup> [Erskine May 25<sup>th</sup> edition p.31](#)

<sup>28</sup> [Journals of the House of Commons, Vol. 184 \(1928-29\), p.3](#)

<sup>29</sup> Further details on offices and circumstance that lead to disqualification can be found in [Erskine May 25<sup>th</sup> edition, pp.29-38](#).

to give up his seat due to appointment to a paid office was Sir Thomas Williams, who was appointed a circuit judge on 1 June 1981.<sup>30</sup>

More recent practice has been for Members to 'take the Chiltern Hundreds' before taking up another incompatible post. Hence, Tony Lloyd and Alun Michael in 2012 took the Chiltern Hundreds whilst they were candidates to be Police and Crime Commissioners. Had they been elected whilst still Members they would have been disqualified from becoming Commissioners.

Details of paid Crown offices that disqualify people from sitting in the Commons can be found in Schedule 1 of the [House of Commons Disqualification Act 1975](#). Section 4 of this Act explicitly mentions the Chiltern Hundreds and the Manor of Northstead.

Additional information about the history and development of disqualification can be found in the House of Commons Library briefing paper [Disqualification for membership of the House of Commons](#).

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<sup>30</sup> An exception is that a MP can be a Justice of the Peace. [Erskine May 25<sup>th</sup> edition, p.36](#).

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