

Committee on Standards

Oral evidence: [Work of the Parliamentary Commissioner for Standards](#), HC 363

Tuesday 12 December 2023

Ordered by the House of Commons to be published on 12 December 2023.

[Watch the meeting](#)

Members present: Ms Harriet Harman (Chair); Alberto Costa; Allan Dorans; Philip Dunne; Sir Michael Ellis; Yvonne Fovargue; Sir Francis Habgood; Sir Bernard Jenkin; Dr Michael Maguire; Mehmuda Mian; Dr Rose Marie Parr; Victoria Smith; Dr David Stirling; Carys Williams

Questions 1-17

Witnesses

[I](#): Daniel Greenberg CB, Parliamentary Commissioner for Standards; James Davies, Registrar of Members' Financial Interests; and Helen Reid, Senior Investigations and Complaints Manager, Office of the Parliamentary Commissioner for Standards.



Examination of Witnesses

Witnesses: Daniel Greenberg, James Davies and Helen Reid.

Chair: A very warm welcome to you. Thank you very much for attending today's oral evidence session for the Parliamentary Commissioner for Standards.

Commissioner, we welcome you and your team to this meeting of the Standards Committee. The Committee works closely with you and your office through the year, but this is a public opportunity for us to discuss with you your vital role within Parliament. You have been in post for nearly 12 months, so this will be a useful opportunity for you to take stock and tell us how you see the role developing.

The House has given us—the Standards Committee—an oversight role in relation to you and your office, but at the same time we and the House have made clear that we absolutely respect your operational independence, which is important for public trust in our standards system.

I understand that you would like to make some opening remarks, and I will invite you now to do that—after which we will proceed to questioning by the Committee. But before that, I would like to thank you very sincerely for your work and your team's work. It is, as you say, incredibly important for public confidence and trust in our democracy. I will pick up your suggestion of thanking your team for their dedicated professionalism and commitment, which is exemplary.

Could I start by asking you to give your opening remarks, and also your reflections on your first 12 months as the Parliamentary Commissioner for Standards? You have been Parliamentary Commissioner for only 12 months, but you have got a great deal more experience than that, so we look forward to hearing from you. Thank you for coming this morning.

Daniel Greenberg: Thank you very much indeed, Chair. If I may formally introduce myself, I am Daniel Greenberg, Parliamentary Commissioner for Standards. On my left is James Davies, who is the Registrar of Members' Financial Interests; and on my right is Helen Reid, who is the senior investigations and complaints manager in my team.

Thank you all very much for inviting me to give evidence on my annual report and general progress this year. The organogram on page 8 of my report shows that I have a small but highly professional team that I inherited from my predecessor. It includes a registry team, an investigations team, a correspondence team and a policy adviser.

As you have very kindly said, Chair, each member of the office brings the highest possible professional standards to their service of the House in implementing the rules and principles laid down by the House. It is a great pleasure to join with you, Chair, in recording my gratitude and—very



HOUSE OF COMMONS

kindly—your gratitude to each of them for their devoted service to the House.

Chapter 1 of my report notes the introduction of the new Code of Conduct, the Guide to the Rules and Procedural Protocol this year. My impression is that these have been well received in general. I will touch on them a little bit later; it may be that the Committee will have specific questions that I would be very happy to answer.

Pages 11 to 13 of my report show that this year I have used the power to give formal and informal words of advice under Standing Order No. 150. I have also innovated a series of advice notes designed to answer frequent questions or address matters where I thought public, transparent guidance would be helpful.

The charts on pages 15 to 17 show a significant increase in the number of allegations and inquiries received. The fact that, despite a significant increase in business, turnaround performance has increased so that 99% were answered within five working days this year is again a testament to the diligence of my team.

Engagement and outreach were keynotes of my intentions when I took up this role. As discussed in chapter 2 of my report, I have greatly enjoyed the many opportunities I have had this year to discuss standards in politics, and politics in general, with members of the public—particularly on visits to schools and universities, and in welcoming students to Parliament.

Trust in the political process in the United Kingdom is at a dangerously low level, and the standards system is very much part of the remedy. Simply having the opportunity to explain to members of the public aspects of the system of which they are not aware, appears to go some way to reassuring them and restoring faith in the parliamentary process.

As I near the end of my first year in post, I feel profoundly privileged to have been permitted to play a small part in Parliament's ensuring that it both performs at its best and is seen to be performing at its best. I am always grateful to the Committee for its collaboration in that precious process. In that spirit, I look forward very much to answering your questions today.

Reflections on my first 12 months overall include raising awareness and engagement work. One thing we have done that I have enjoyed enormously, and has had some impact, is to innovate a series of principles in practice seminars. To begin with, Members' staff come and sit together and discuss what the Nolan principles look like in the day-to-day practice of a Member's office. It is not telling them anything they did not know before, but it gives them a little bit of space and time out to reflect on how their everyday work implements those precious principles that we all strive to uphold.



HOUSE OF COMMONS

I have found those discussions fascinating. Out of them has come shared best practice. In my annual report, we put anonymised case studies at the end to show how parliamentarians share best practice in how to serve the public. Those are cross-party parliamentarians, because it is important to show this is about Parliament, not about party politics. That has been part of the engagement that I have enjoyed enormously and has had a significantly useful impact, based on the feedback we received.

I have mentioned advice notes and I will be happy to talk about them in more detail later. On the matters that most concern the public, one of my roles is to be a conduit to you, the Committee, and to Parliament in general, to relay the concerns of the public—what they actually care about. That is something, again, we have reported to the Committee. My annual report was partly aimed at that, so that you feel you are properly informed by me on what is one of the relatively few public-facing aspects of the parliamentary process that I am told members of the public care about.

At the beginning of the year, my team told me they were a little bit concerned about late registrations. A little bit of practice was beginning to slip a little bit on timeliness of registrations. Obviously, the House has laid down strict time limits. We started little projects to try to increase awareness and compliance. We started with some letters, just to warn people. We did a second wave of letters later on. Where necessary, we started a couple of investigations.

What I want to say about that, as an example of what I have done in this year, is that overwhelmingly the reaction of Members has been positive and constructive. There was very much a feeling of, "Oh, that's helpful to bring this to our attention. It is something that we did not necessarily know mattered and was slipping." With very few exceptions, the response has been constructive and engaged, and has made me and my team feel that we are working with you to improve standards.

The registration team has worked very hard this year, along with other House staff, on the digitisation of the Register of Members' Financial Interests. We are looking forward to that being launched early next year, all being well. That will be a significant advance in transparency and accountability. Members of the public will be able to search in ways that they have not been able to before. That is something the registrar and his team have worked on very hard this year, and we look forward to seeing the results of that next year.

I have two last things to mention. We have already started planning this year—it is expected that there will be a general election at some point in the next year, and we have already started planning for what is expected to be, based on the number of Members who have indicated that they intend to retire, a significant number of new Members. We have started to think about that this year, and how to help them to integrate and to implement the standards system. We will carry on thinking about that.



HOUSE OF COMMONS

Finally—again, this will carry on next year—we have started to help the Committee with its landscape project and its very important aims of simplifying and clarifying the overall standards system. That is something that I know is of great interest to the Committee. It is also of interest to me, and I know that it is important to Members. They want to comply with the system, and the clearer and simpler it is, the easier it will be for everybody to comply.

I hope that that, as well as my opening remarks, covers my reflections on the first year. I will turn to my colleagues to see if they have anything to add to that.

James Davies: No, I think that is clear.

Helen Reid: No, thank you.

Chair: Thanks very much. I hope we can take oral evidence from you when we come to our landscape review.

Q1 **Sir Francis Habgood:** Good morning. I am one of the lay members on this Committee. My question will be in two parts. This is the first part. As you know, Standing Order No. 150 governs the Commissioner's duties. How do you manage your concurrent roles of conducting investigations, advising individual Members of Parliament and acting as an adviser to this Committee? Can you think of any competing demands in relation to those duties?

Daniel Greenberg: I mentioned at the start that, in the office, I have separate investigations and registry teams. Those teams are able to put in place information barriers—as one would in a number of regulatory contexts outside the House—between the complaints and investigation and the advice and advice-giving roles. I will try to give a little bit of detail. If I am giving more detail than you want, then do stop me.

The registry office very kindly takes on the function of providing advice to Members and giving those Members the clarity that I mentioned they often seek in relation to registration. The registration team will clarify to Members at that point that the Commissioner's processes for the consideration of complaints are separate from the investigations office. They will be told that if I, as Commissioner, decide to take action of an investigatory nature into what they are raising, the investigations and complaints team will contact them separately and directly.

During an investigation, paragraph 35 of the Procedural Protocol, which the House put in place, allows Members to request a meeting with me to clarify matters of process or procedure. Again, those meetings are recorded, subject to any redactions relating to welfare concerns. Any contact between a Member and the Registrar while an investigation is going on has to be in writing and will be brought in to the paragraph 35 structure or otherwise dealt with. Once there is an investigation going on, the advice function is basically no longer available. Having said that, one of the important principles in paragraph 16 of the new Guide to the Rules is that of "safe harbour" advice. That is a very important principle for me—



HOUSE OF COMMONS

as it is, I think, for all of us—because we would clearly much rather that Members came and asked and were helped to comply than being left not knowing what to do, and then being investigated by us.

If I may, I will explain what that means, for the public record. It means that Members are given adequate information by the advice owner, who is very often the Registrar of Members' Financial Interests, but can be the Clerk of the Journals if the question is about compliance with the stationery rules. The Member comes along and provides information about what is concerning them; they receive advice on how to behave and, if they follow that advice, they can rely on the safe harbour principle, which basically means that, having complied with the advice that was given to them by the advice owner, they will not be investigated. That is not a new principle—it has, broadly speaking, always operated—but it has been newly codified in the Protocol, so that Members have clarity as to what it does and does not cover.

Another thing to mention is that the investigations team will always apply the most lenient, reasonable interpretation of the rules to a Member's conduct when investigating. We are being rigorous, but we are also being very fair. We are trying to make sure that Members do not feel that we are sitting on a complicated set of rules and are going to construe them in a very strict or very surprising way. It is about clarity in advance.

Finally—this again goes to separation within the office that you are asking about—what we will not do is advise on a past course of conduct. Once it is over, we will happily listen to a Member, and they are of course entitled to self-refer to me, but if they do that, they are self-referring for us to consider whether there is cause for an investigation. We cannot advise after the event. Those are the arrangements for separation of advice giving and investigation functions in the office.

There are two other things to add. Members are, of course, entitled and indeed encouraged to come to me for private and confidential advice about any matter. I will be able to give them advice, subject to the point I just made—if it relates to past conduct. We have produced advice notes this year, because sometimes I will say, "That was a really interesting conversation. I'm really glad that Member came to me. I bet there are other Members who would benefit from that," and we have turned that into an advice note.

You mentioned in your opening remarks, Chair, that the House and the Committee give me operational independence. That is fundamental to the way we run the office. The investigations team and the registry team, particularly the investigations team given its nature, operate with strict independence from the House, which is something that the House has given us. It gives credibility to the entire process, and therefore I value it very highly and am very grateful to the House for upholding it. Have I answered your questions?

Q2 Sir Francis Habgood: Yes, you have. That was really clear and actually leads nicely on to my follow-on question, which picks up on what you



HOUSE OF COMMONS

described in your report as constructive tension between your role as Commissioner and the Committee on Standards. I guess that is referring to the operational independence versus the role of the Standards Committee to oversee your work. Could you unpack what you meant about that constructive tension in relation to operational independence?

Daniel Greenberg: Yes, and thank you again for the question. In terms of regulation, the House of Commons has a unique problem, because constitutionally nobody but the House of Commons can regulate the House of Commons. This is fundamental to the nature of parliamentary privilege and parliamentary exclusive cognisance over its own affairs. In wanting to be regulated, you have a unique problem.

If I were to be able to suspend Members of Parliament, for example, that would grossly undermine the democratic process. I am not elected. I am appointed by the House. Nobody but elected Members of the House should be disciplining Members of the House. That gives you a problem of credibility, and that is the tension you are asking about. It gives you a problem in terms of credibility, because if the public see that Members of Parliament are marking their own homework, so to speak, how seriously will they take the regulatory system?

You have dealt with that in two ways. One is that, here we are, sitting in the Standards Committee and there are members of the Committee who are not also Members of Parliament, so the House has chosen to inject an element of independence into the Committee that oversees me. The second way, which affects me directly, is that as the Chair says, you have told me, "Be independent." I am a five-year fixed-term appointment. I cannot be reappointed. I am being told, "Carry out your role without fear or favour, and do it in a way that hopefully the public get to learn about and trust."

That is part of the engagement role, because I think that it is really important that as many members of the public as possible learn that there is an officer of Parliament who is being told by the House to be independent in the exercise of their functions. I therefore lend credibility and authority to your process. You lend authority to me because I do not make decisions about Members of Parliament; I make recommendations to you. You report to the House, and, if there is disciplinary action to be taken, that is taken by the House. That is a tension that I feel we have resolved—or are resolving—in an appropriate way.

Q3 **Alberto Costa:** Good morning, Commissioner, to you and your team. Thank you for that very interesting and helpful answer. I want to expand on the points you just made.

Your letterhead states that your office is independent, impartial, thorough and fair. You often see those words applied to other regulatory bodies, but, of course, all other regulatory bodies, at least those that I am aware of, are subject to the supervisory jurisdiction of the courts. You are in this unique situation where you are not subject to the supervisory jurisdiction of the courts, and you have used the term "unique problem" to describe



HOUSE OF COMMONS

that.

I think it is very helpful for the Committee to hear this for the first time—this unique problem. I think that it is a problem, and it is one that I raised many years ago. I was very happy that Sir Ernest Ryder's report agreed with my concerns that the Commissioner then did not opine; the Commissioner adjudicated and presented the case to the Committee and took part in deliberations. I said at the time that that was wrong and contrary to the principles of natural justice, as anybody would understand those principles, precisely because the office is not subject to the supervisory jurisdiction of the courts.

I want to ask you about something that Francis touched upon. Notwithstanding the fact that we have very welcome lay members on the Committee—that is one of the two ways in which we avoid “marking our own homework”—you emphasised that the House asked you to be independent. How, therefore, can this Committee have proper and meaningful oversight over your work, and that of your team, to ensure that you are independent, impartial, thorough and fair, when you are, at the same time, the adviser to this Committee? Is there therefore not a case now to say that perhaps we should remove that function? I think that it continues that problem, in that you are subject to the very weak oversight of this Committee, but, at the same time, you have an advisory role to the Committee. Would you like to respond on that?

Daniel Greenberg: Thank you very much. I would like to make three points in response to that, if I may. The first is just to highlight again—everybody in this room knows this, but the public will, I hope, be reassured to learn it—that part of the reforms made following the report by Sir Ernest Ryder was about giving the Independent Expert Panel appellate functions in relation to your reports.

There is therefore now a structure in which I investigate and then report to you findings of fact and any other observations that I want to make. You reach a decision. If the Member of Parliament concerned feels that there was a procedural injustice or any other unfairness, they now have a right of appeal to the Independent Expert Panel, which is chaired by a former very senior judge, and has on it people with a range of judicial and other regulatory experiences. The House has put into place a hierarchy of process that is designed to ensure independence and fairness.

Secondly, I understood you to suggest that I should no longer be an adviser to the Committee. Clearly it is not for me to tell the Committee what it does or does not want me to do, but personally, I would regret that. I do not want to advise the Committee on its deliberations on specific cases, and it is now the system that I do not. I give you my memorandum. If you want further information, you write to me, and we respond. That system seems to be working very well, and I am very happy with that.

It would be a shame if I were not able to share with you my feelings on information of a general nature that I receive, and on the general direction of travel on standards and propriety—the very wide things that the



HOUSE OF COMMONS

Standing Order asks me to be responsible for. There are issues of a general nature that I would like to share with you. As I say, the question of what help the Committee wants from me is absolutely a matter for the Committee, but my view is that on a general, overarching level, I value the ability to discuss things with you.

That leads to my third point. You described this Committee's role as weak oversight. I accept that in institutional terms, and compared to some outside regulators, it is; we have discussed why that is inevitable. However, I do not see it as weak oversight. I think I speak for my team when I say that we have benefited greatly from what I would call the quite penetrating and searching oversight that we get from the Committee. I report to you in some detail on my activities, and you question me about them on a general level. I certainly do not feel, on my side of the table, that there is anything weak about the relationship. On the contrary, I find that I receive from the Committee not just institutional strength and credibility, but very real and active oversight, which I which I welcome. Do either of my colleagues have anything to add?

Helen Reid: No, nothing.

James Davies: No. I think that is a very good description of the team.

Q4 **Dr David Stirling:** I am David Stirling, a lay member. Daniel, thank you very much for your report. I thoroughly enjoyed reading it, and learning about the work that has been going on over the last year. I was particularly struck, as I am sure we all were, by the increase in the number of cases that you have been asked to look at. In 2021-22, there were 1,434 cases; in 2022-23, there were 5,672—a huge increase. Yet the number of cases in which a conduct inquiry was instigated reduced: there were 32 last year and 14 this year. You described quite helpfully some of the reasons why cases are not instigated—the person could be waiting for a decision from another body, or the issue might be outwith your remit. How many of those 5,000-plus cases fall under the remit of the Code of Conduct?

Daniel Greenberg: Thanks for that. Yes, there absolutely is a very significant increase in complaints on matters that I am not able to do anything about or open an investigation into. Let me start at the end of your question. My annual reporting year goes up to the end of March, so perhaps I can update you a little with figures that my team have very kindly prepared. To date this calendar year, just over 1,200 complaints were received about language used or actions taken in the Chamber. That is an example of something that I never investigate. Paragraph 19 of the Protocol is very clear that, for obvious reasons, that is absolutely outside my remit, so right from the beginning, that is 1,200 cases in which the person will get a letter back saying, "Not for me."

The letter does not say, "Go away." We have looked very hard at the correspondence that we send to members of the public when they make complaints that are outside our remit—as you say, there are a lot of those. We give them our reasoning very carefully. Also, where relevant, we tell



HOUSE OF COMMONS

them where they ought to go with their complaint. We also sometimes draw their attention to wider, more general work going on in relation to what they are talking about. Another 1,000 complaints are about views and opinions expressed, including on social media. Those people get a letter saying, "We're not going to investigate, because the Commissioner should not generally"—the House has said "generally"—"interfere in how Members of Parliament deal with their constituents, handle their complaints, and express views, but this is something that I have discussed with the Committee and explored in my annual report, and that Mr Speaker has discussed." We try to give complainants as much help as possible; we do not just say, "Not for us. Go away." We give them information on what is being done about the issue at a general level, and what else they might do about it.

Language and actions in the Chamber make up 1,200 complaints, views and opinions are another 1,000, and constituency complaints about responsiveness or case handling are another 500. Again, those people get a letter saying, "As a general rule, the House has told me that I'm not to investigate that," for reasons that we all appreciate. "Here are some thoughts about where you might go, and here are some thoughts about the general issues." If they raise general issues, they get a general reply. You can see that that accounts for well over half the complaints.

As to the rest of the complaints, the members of the investigatory team are drawn from a range of regulatory backgrounds, and they are highly experienced, professional investigators. We apply very clear, consistent and rigorous criteria in the office, including the proportionality and reasonableness test set by the House, as well as evidential rules. A very clear set of tests are applied before we open a formal investigation.

I am not surprised that the number of complaints we get are so much higher than the number of investigations we start. When we tell a complainant that we will not open an investigation, we try to give them enough information about the process that we followed, including a link to the Procedural Protocol, so that they can understand that this is not a random exercise, and the decision is not made on a whim, but follows a very clear, consistent and coherent regulatory process. Helen, I don't know if you'd like to expand on that.

Helen Reid: Only to say that the process that we follow is set out in the Procedural Protocol. There is a three-stage test: does the complaint fall within the remit, is there sufficient evidence, and is it proportionate? That is about following paragraph 27.

Q5 Dr David Stirling: I put on record how impressive it is that you and your team manage to deal with so many cases, and have a 99% rate of response within five days. That is exceptional. Of the cases referred to you that clearly relate to the standards and are within your remit, what percentage either do not reach the threshold, or can be rectified very quickly without need for an investigation? It would be helpful for the Committee to know. Perhaps that could be in a future presentation of the data. We could then get a feel for the landscape in the House, in relation



to potential problems in complying with the standards.

Daniel Greenberg: That is a really important question I would like to be able to give you a statistic, but I cannot; I don't have the exact figure. It is one that we will note and prepare for the future. You sort of indicated at the beginning that one can roughly work it out for oneself. This year, it is about 2,500 or a bit more, so if you take that away you are left with about 1,500, and you know how many investigations we have started. So we can see that it is a tiny proportion, but we will capture that as a piece of data for next year's report. I am very grateful.

You mentioned informal resolution; I would like to touch on that because I agree with the implication that that is a very important part. Sometimes I can use the word of advice process under the Standing Order to say to a Member, "I have a concern" or "I wish to give you formal advice in a way that will avoid the necessity for a formal investigation."

Of course, even when I have started a formal investigation, a rectification process is open to me under the Standing Order, which again means that there is not a formal report to the Committee. It is agreed between me and the Member and typically contains three components: an acceptance that there was a breach, an apology for the breach and an understanding of what is going to be done to prevent a recurrence.

In terms of the general move towards alternative dispute resolution in the world in general, I think that is really important. As you can see from the website, which records what ends in rectification and what doesn't, that is successful in a large number of cases. A really small number go to full investigation for the reasons that Helen has outlined.

I take it that the Procedural Protocol wants us to give the public an impression that no complaint will be ignored and no complaint will just be waved away, but because of the constitutional imperative of safeguarding the independence of Members of Parliament in the performance of their functions, there are relatively limited cases where I will investigate. The threshold set by reasonableness and proportionality is necessarily a significant threshold. Does that help as much as I can without a statistic?

Dr David Stirling: Yes, thank you.

Q6 **Chair:** To follow up David's observation, even if a significant chunk are not within the remit, we have to recognise that each one requires from you, Commissioner Helen, and the team, a determination, so they are not self-evidently outside the remit. We bear that very much in mind: the increase in work but still a high level of professionalism that you have to apply to every single case so that you don't inadvertently rule out something that should be in your remit. I, for one, very much appreciate that.

Daniel Greenberg: Thank you, Chair. The members of my team who are not here today will have been very grateful to both of you for expressly recognising that they are reaching a very high performance service level.



Chair: Despite the increasing numbers.

Q7 **Sir Michael Ellis:** Commissioner, I want to follow on from the previous question and your answers about the fact that your report outlines a large increase in the number of allegations. I am wondering whether you have any observations about what might be driving that upward trend of allegations.

Are you worried, or has it been your experience of the last year, that complaints processes could be abused by those with a political motivation? Members of Parliament have those who oppose them for various reasons, including political rivals, and historically complaints have been known to have been made about Members of Parliament that have come to nought and been found later to have had improper motivations. I am wondering if you have any experience of that—whether you think it is a factor or you think the upward trend is due to something else.

Daniel Greenberg: I don't have evidence of the reasons for the increase. I think we all know that in the last couple of years there have been some highly public events around standards and behaviour in public service in general and Parliament in particular. It would not surprise me if that has focused the minds of the public in a way that leads to an increase in complaints, but I don't know that for certain. Similarly, I have tried with the help of the team and the Committee to increase awareness of the standards system, which may also have resulted in its being used more. Again, I do not know, but these are possible reasons.

I absolutely accept the issue you have raised, and I think it is important to be clear that I do not at any stage consider or test the motivation of a complainant. That is not something I am equipped to do, and it is not something that forms part of the process. But by applying a rigorous standard, both at the threshold of an investigation and in relation to evidence and the process of how we run an investigation, we set out to discover whether there has or has not been a breach.

At the end of the day, if there has been a breach, the motivation of the person who complained, which might have been political, is not relevant to my investigation. It might be relevant at a later stage. You, the Committee, might decide to consider it relevant in your consideration of the report.

If there has not been a breach, then we will find that out, irrespective of how strongly we are being pushed or the motivation behind a complaint. The system is not designed to capture motivation; it is designed to make motivation irrelevant to the outcome. That is the most significant part of the answer to your question. Helen might have something to add to that.

Helen Reid: The most important test is whether there is sufficient evidence to justify the initiation of an investigation. I have just brought up the annual report: one of the reasons for not starting a Code of Conduct inquiry was that there were 80 complaints where no evidence was submitted. Where we do get complaints that are completely unevicenced, they do not satisfy the test.



Sir Michael Ellis: Eighty or 18?

Helen Reid: Eighty.

Q8 **Alberto Costa:** You very helpfully used the word “weaponisation” when you first started as Commissioner. You indicated that you were concerned that complaints might be weaponised against MPs—as I say, I am using your word. Taking Sir Michael’s point further, what thoughts do you give to that now, some 10 or 11 months into your job?

Daniel Greenberg: In my mind, weaponisation is more about effect than motive. I am not in a position, as I said, to judge why people are bringing complaints forward. I am concerned to make sure that the complaints process is used in good faith and to identify and publish real breaches.

One of the things we can do to avoid weaponisation is ensure that investigations are carried out as quickly as possible in a way that is consistent with rigorous and fair investigation. You are absolutely right that this was one of the things that concerned me, so one thing that I and my team do all the time—I am not suggesting this is in any sense an innovation and that they did not do this before—is to constantly aim to carry out investigations as quickly as possible.

This is not a comparative analysis, but this year I believe we have been very successful in avoiding unnecessary delays. That is very often where the opportunity for the effect of weaponisation can come in. We are doing our best to give a clear message to Members of Parliament that, while they are under investigation, we will treat them fairly and consider their welfare, and that we will consider the importance of minimising the opportunity for weaponisation or other kinds of unfair behaviour.

Q9 **Yvonne Fovargue:** I would like to move on to the Code of Conduct. You have mentioned that you did seminars with Members and Members’ staff. How embedded do you feel the new Code of Conduct, the Guide to the Rules and the Procedural Protocol are in the culture of the House—not just in their observance, but in the whole culture?

Daniel Greenberg: The fact that we have a five-yearly review, report and then a new Code means that the House regularly has an opportunity to refresh its approach to standards. At the beginning of this year, the 2023 Code was published. We did a certain amount of internal work in the House to engage with Members to help them to navigate the changes and to help the changes to become embedded. Helen produced a particularly helpful guide for Members on the key changes in the Code, and that was made available. It is still on my website if people want to see it.

My impression is that the new Code has embedded really well. My impression is based on the following evidence. I have already mentioned that I produce advice notes. Some of them are based on questions that we get around the new Code. For example, my first advice note was at the request of the Committee: it produced a template for contracts dealing with the new prohibition on providing paid parliamentary strategic advice.



HOUSE OF COMMONS

My advice note No. 6 was built on that. It was a discussion of certain aspects of the new prohibition on paid parliamentary advice.

The fact that my sixth advice note put out that advice shows that people were engaging with it. It is embedded enough that people come and ask me questions about it. That showed that there was significant awareness. That was one of the biggest changes in the Code, and there was clear awareness and interest: people came and asked questions, and we then reacted with an advice note to deal with that.

I mentioned the late registration project for this year. Perhaps, in the context of your question about embedding the new Code, I can discuss one of our projects for next year. I have a power under chapter four to call for contracts and check that they are working properly to achieve the balance that the Committee wanted to achieve. That is one of the things that we are going to look at next year. That gives me some evidence of engagement and embedding. The late registration project, in its inception, showed that perhaps there was a slight lack of engagement with the time limits. But the way it was treated by Members showed me, again, an understanding, awareness and constructive wish to embrace the changes.

Finally, I have mentioned the general election planning. That will help: it is an opportunity for everybody to refresh their understanding of the Code and allow it to become even more embedded. So my impressions are that it is going well and there are opportunities to improve it.

Q10 Yvonne Fovargue: There has been a rise in complaints and a rise in engagement with Members. How are your office coping with these competing demands? There has been a rise in the number of people complaining, and obviously we have heard that there has been an increase in written allegations and inquiries to that team. You also have increased engagement with Members and the general public. How is your office coping with those competing demands?

Daniel Greenberg: Extremely well. As has been said, the efficiency of the office in dealing with complaints and correspondence is generally great. Earlier on was mentioned the idea of quickly identifying what correspondence is a complaint and what is to request a chat. There are members of the public who have wanted to come and talk about the standards system, and I have been delighted to do that. Sometimes they literally just want to understand it or discuss it. Members of Parliament are always welcome to come.

If your question is whether I am going to come back next year and ask you to double the resources of my office and double our budget, the answer is, at present, no. If we do need to expand the engagement activities and if we need more resources, I know the House will look on it sensibly and consider it among the competing impact on budgets. The serious answer to your question is that so far we seem to be able to accommodate; I am not turning down requests from Members for meetings, and I am not turning down requests from members of the public. So far we are managing to accommodate.



Chair: You addressed some of the issues that were going to be raised by Rosemary in the first part of her question, so perhaps you would like to just go straight to the second part of your question, Rosemary?

Q11 **Dr Rose Marie Parr:** I really welcomed your annual report this year. I found it engaging and illustrative, both in tone and content. I personally think that your engagement and outreach work is really important. We heard early on in this Committee session that members of the public are at an all-time low in terms of what they think Parliament is like and how it works. Trying to restore faith is a really important aspect. Some of our academic research shows that we should start very young by speaking to schoolchildren and members of the public to restore that faith, and I really welcome that.

My question relates to what you have mentioned before, Commissioner, on advice notes. We have seen that they are disseminated widely, so I think they are a really good idea. My question is about the status of advice notes in relation to the Code, the Guide, and the Protocol. Are there any improvements that you think we could make to help that?

Daniel Greenberg: Advice notes are very clear. They say in their terms that they are not there to vary or add to the rules that the House has laid down in the Code. Obviously, they are no more than my reflections and advice—my attempt to be helpful to the House. I am grateful for the question, because it is very important that Members and the public bear in mind that I do not have the power—as I said before, I do not want the power—to change the rules that the House has laid down. As the Code of Conduct is underpinned by the principles of public life, which we have mentioned, it is natural that the practical advice in my advice notes will reflect those values. To give an example, my advice note on transparency of registration of income, donations and other financial interests was about engaging with Members and working with them to be led by the principles of openness and accountability in registering their interests, in order to deliver genuine transparency. That reflects the injunction to me in the Code that while I am not investigating breaches of the Nolan principles—the Code is very clear that that is not my job—I am required by the Code to take them into account when applying the Code and when investigating.

Something that advice notes can do is indicate the relationship between particular principles and provisions of the Code. The advice notes are published in the way that we have discussed. They are meant to be of assistance to Members. They are very clearly not meant to be additional rules. In terms of the landscape review that the Committee is undertaking, I have mentioned the fact that I have considerable sympathy with the fact that the rules are quite complicated. The last thing you want to do is overlay them and say, “Oh, and you’ve got to follow all the advice.” That is not the purpose of the advice notes. That is not what they do. They are there if you want help. The Registrar might like to say how they are used in that context in his team, which may give an example.

James Davies: From the perspective of my team, they have actually been extremely helpful. The advice that we give to Members is extensive and



varied. It is really helpful when an advice note has been issued by the Commissioner, which we can pass on, along with the detailed rules of any specific example of advice being sought. The feedback I get from Members when we pass on advice notes is extremely positive, because they get both the rules and a wider context and, as Daniel said, the connection between the rules and the principles they are based on. From my office's perspective, the advice notes have been extremely helpful.

Daniel Greenberg: If I could just add one very quick thing, part of Helen's role is very kindly to keep a note of issues that arise during each five-year term that need to be fed into the next review of the Code, and arising out of the advice notes there are one or two points where we thought to ourselves, "That could actually be quite helpful and included in either the Code or the Guide in due course." That is something that Helen or we will bring to the Committee when it comes to the next review.

Dr Rose Marie Parr: Thank you.

Q12 **Philip Dunne:** Commissioner, on the subject of advice notes, as part of my preparation for this Committee—I joined for the first time today—I read through all the advice notes you have published, some of which I recalled having read when they were published and some of which I did not. I noted in particular that one was issued in early August this summer, when the House was not sitting. In terms of dissemination for Members and picking up on the positivity that both you and James Davies have mentioned about the advice notes, as a recipient I found them very helpful. However, unless I am aware that they have been issued—because I do not routinely visit your website, and I suspect that very few Members do, unless they have a specific reason to—it would be helpful to ensure that they are disseminated when a new one is issued via the usual channels. The Whips Offices, for example, have means of communicating with all members of their respective parties, and drawing attention to the fact that a new advice note has been issued would be beneficial to the House.

Daniel Greenberg: Thank you; I completely agree with that. The only thing I would say in support is that, as a result of representations made by the Committee, we are now sending electronic reminders about each new note issued. Again, as the Registrar just mentioned, if an advice note begins to look as though it might be particularly helpful for a Member because of something they are asking about, they will be directed to it by the Registry Office, so I completely agree.

Q13 **Allan Dorans:** Good morning, Commissioner, Helen and James. Thank you for all that you do; it is an extremely difficult and very important role in our democracy and how we function. My question is on proportionality. You very helpfully issued a document this week for members of the Committee. For the benefit of the viewing public and the record, what steps do you take when checking whether to launch an investigation, and how much actual discretion do you have? For instance, how do you determine if it would be proportionate to conduct an investigation?



Daniel Greenberg: Thank you. As Helen helpfully reminded us earlier, the Procedural Protocol lays down essentially a three-stage process of evidence, reasonableness and proportionality. The evidence stage, as we mentioned before, is where a lot of complaints fall down, because they just do not provide evidence. We are clearly a wholly evidence-based system. On the reasonableness and proportionality, I will give some random examples of proportionality criteria that we may have used in past cases. I clearly cannot give an exhaustive list, because that is not how it works, but in terms of the overall regulatory approach when we start or consider starting investigations, consistency is extremely important for two reasons. It is important for fairness and perception—so, as I said before, it is not a whim, but that there is consistent practice within the team.

That is ensured by the members of the team coming from a range of regulatory backgrounds. They bring with them a range of experience of best practice in applying thresholds of evidence, reasonableness and proportionality. We also hold discussions and sessions about ongoing professional development with people—views and expertise—from outside to inform best regulatory practice within the office.

Again, I am not suggesting in any sense that this is an exhaustive list of proportionality criteria. I agree with the implication of your question, if I may say so, that reasonableness and proportionality are ultimately discretionary. They are things with which you need to balance a lot of competing considerations and come to what seems to be a fair and consistent approach.

One example of that would be the number of breaches. If I were considering an investigation into a complaint of late registration, the number of breaches by the Member is something that I would consider as relevant to the proportionality of opening an investigation; it might well not be determinative in either direction on its own, but it would be a factor in considering proportionality.

To give another example, if that were a complaint about non-registration or non-declaration of an interest, the size or value of the interest might be relevant to the proportionality of the investigation. It might not be, but it is one of the things that we would look at or have looked at in previous cases. I am happy to try to give more examples, if you want.

Q14 **Allan Dorans:** I have one further question. How do you deal with vexatious and frivolous complaints, or repeat complainers?

Daniel Greenberg: I think that the strong sign of a vexatious complaint is just the lack of evidence. As Helen has already said, that is one of the first things that happens: there is a rigorous trawl for whether evidence has been supplied. Very often, we will go back to somebody—this goes a little to Sir Michael's question about motivation early on. We will sometimes go to somebody, if the letter is just a complaint, to say: "We don't act on bare complaints; we act on evidence. Provide us with some evidence that there may have been a breach. If it is significant evidence of



HOUSE OF COMMONS

the kind that gets us over the threshold for an investigation, we will investigate.” That is the most important thing—people just writing to me to complain, “My MP this,” or, “My MP that,” will not get them an investigation, but it will be treated with the same consistent application of the criteria. Is there anything you want to add to that, Helen?

Helen Reid: No.

- Q15 **Sir Michael Ellis:** May I follow on from that briefly? Obviously, we are all well aware—I am sure the public are as well—that you are not a prosecuting authority, but on the point that you were just making, in the outside world where there is a prosecuting authority, it would have a two-stage test to look at beforehand. First, is there a realistic prospect of a conviction at the end of the process? Secondly, is it in the public interest? Prosecuting authorities have to satisfy themselves that both those criteria are met before they proceed. This is to the point about frivolous or vexatious—do you feel that you go through those processes yourself? You might say, “It isn’t in the public interest because it is so minor, so frivolous, that even though there has technically been a breach, it is so minor that the cost, reputational issues and time spent on it would not bear sufficient fruit.” That is what the police and the Crown Prosecution Service would do in the outside world. I realise that this is not exactly the same thing, but it is a principle that seems sound to me. I wonder whether you go through any such processes, or thought processes yourself.

Daniel Greenberg: It is, or can be, part of the proportionality consideration. I have already mentioned that the value or amount of an interest could be a relevant consideration in the test of proportionality. What I would say is—this is very important for Members to remember—that I am absolutely the servant of the House. We apply the Code, the rules and the Guide. It is not for me to tell the House that, in the Code or the Guide, it is taking something too seriously or not seriously enough. Yes, I have been told to apply reasonableness and proportionality, but I have also been told to apply, for example, the stationery rules. I have been told to apply them as they are set out and, until the House changes them, it is my duty to apply them.

- Q16 **Carys Williams:** You have said numerous times that public engagement is a real priority for your tenure. Would you give us a flavour of some of the initiatives that you think have been most beneficial and how they have supported you in your role?

Daniel Greenberg: Obviously, I cannot give evidence directly as to what impact the work that we have done on engagement has had. I obviously do get some feedback. Some of the work that I have done has been giving interviews in the media. They have come to me and asked about things that interest them. Obviously from that, one can gauge whether there has been some interest, but does it get published? What sort of indications are there that the public are interested in it? To be honest, and I genuinely do not want to be unhelpful, I can speak more about how it has impacted me than about how it has impacted the public, although the fact that we get



HOUSE OF COMMONS

public questions about the advice notes and about some of the speeches shows that it is not all going nowhere. Let me put it that way.

On the impact on me and my team, I think it is really critical in two ways. In a general way, it reminds us that we are all part of the public service and that we are all here for the public. The fact that when I go to schools and universities—I am sure members of the Committee are no strangers to this—I often encounter quite a degree of cynicism. People are quite cynical about the political process and, as we have said, trust is very low. I have been excited more than reassured at how shallow that cynicism is. By that I mean that the public, from sixth formers to civil society adults—everyone—is very open to being told that things are not as bad as they might have feared and to being given information about what actually goes on in Parliament.

Sometimes the media do not necessarily present a complete and overarching picture. That is not necessarily their job. It is my job, and I come away every time really inspired to take this job seriously because the public are clearly taking it seriously. I think it is fair to say to the Committee that I have literally never walked away from a public engagement thinking, “There is no point worrying about this because no one cares.” They do care, and they are generally pleased—I was going to say inspired, but I think that is too high a word. But they are pleased and reassured to know that we are working—you are working—to embed high standards in public life. That is a message that I feel changes the way that we work because it encourages us to feel that we are doing something that is genuinely useful and is genuinely having an impact on trust between the public and the political process.

Of course, my independence gives me an advantage, because I do not think that a Member of Parliament can walk into a school or a university and say, “MPs behave very well”, or “It’s not all MPs”. That would be self-serving. I can do that. Chair, you mentioned at the beginning that, although this is my first year in the role, I have been in and around Parliament for 35 years. Members of the public realise that I bring a significant amount of memory and experience to this role, and that when I talk to them about what things are really like in Parliament, I am speaking from a position of knowledge. I think that is part of the impact of my public-facing role, in a way that Members of Parliament probably find it more difficult to present and be taken as independent representatives of what happens.

Finally, I would say that details of my outreach activities are included in my monthly reports to the Committee for the oversight, but also the annual report gave a list of places that I have been. I intend to do the same year on year, and I would like to take this opportunity to strongly encourage any members of the public who would like to engage with us, who would like a visit, or who would like to talk about aspects of the standards system—whether it be schools, universities, civil society groups or academic groups, with which we have some relationships—and say that we are always very happy to hear from them.



Chair: Can we move at this point to Victoria's question?

Q17 **Victoria Smith:** Good morning, Daniel. As you know, there are certain matters that have been excluded from your remit, other than in the context of an investigation into whether the reputation of the House is being significantly damaged. Those excluded matters include things like the performance of MPs in their constituency duties and comments on social media. Do you think it is appropriate? If you do, how far do you think it is appropriate for you to comment on those matters if they are of wider public concern?

Daniel Greenberg: Thank you. There are two categories of matters that are outside my remit under the Protocol, and I mentioned one aspect of one before. Paragraph 19 of the Protocol sets out some matters that I am absolutely not to investigate, which include actions in the Chamber, as I mentioned before. It goes further, and I am not to investigate crime, fraud of a kind that is relevant to IPSA, electoral fraud, breaches of the Ministerial Code or, importantly in the context of your question, matters that relate purely to a Member's private and personal life. In so far as my opinion on that matters, yes, I think that is absolutely right. I do not think that I should be commenting, for example, on criminal investigations, electoral fraud, or Members' private and personal lives. Those are absolute bars that are, in my view, set in the right place and that I aim to comply with absolutely.

As you say, paragraph 18 of the Protocol identifies matters that, as a matter of generality, I should not investigate specific cases of, unless they reach the very high threshold of, for example, serious reputational damage to the House. That is an exception that the House provides expressly in the Protocol. On that, my view is that I should not be commenting on specific cases there. It would be quite improper for me to purport to tell a Member of Parliament that she or he should or should not be replying to a particular constituent in a particular way. However, I think it is valuable for the Committee and the House that I report to ensure that the Committee is being told what members of the public are telling me about their concerns. So many of their concerns are outside my remit for the reasons that we have discussed this morning, and I think I can serve the Committee by ensuring that you are properly briefed on what it is that members of the public care about. What you decide to do about that is absolutely a matter for you.

In two of the appendices to my annual report, I felt that—given that I get so many complaints about choice of language and unresponsiveness, many of which we all know, by the way, are without any merit at all, particularly on unresponsiveness, if I may say so. We all understand the reasons why sometimes somebody will come to me and say, "My MP hasn't responded." What they mean is: "My MP has finally decided that their staff should not be exposed to abusive correspondence from you," for example. That is something that we have encountered. Where that happens, obviously we are in a position, when we send out, to tell people, "We're not going to look into that, and here are some general considerations." In so far as we can serve the House by reminding



HOUSE OF COMMONS

members of the public that Members and their staff—particularly their staff, if I may say so—are entitled to be treated with respect and care, we very much welcome the opportunity to do that.

After that, should I be informing the House of what matters to the public? I think I should, and the Standing Orders are very clear that I am required to advise generally on matters of propriety and matters in relation to the Code. I will do that in my annual reports without interfering in a way that the Protocol has told me not to do. Does that answer your question?

Victoria Smith: That's lovely. Thanks very much.

Chair: Commissioner, thank you very much for coming to give formal evidence today. I think that you and your team have well emphasised the three watchwords of evidence, reasonableness and proportionality. That has been very illuminating. That will conclude the formal evidence session, but we will now return to private session. Can I ask any members of the public to leave at this point, so we can continue with the private session?