



House of Commons  
Committee on Standards

---

# Code of Conduct: Procedural Protocol

---

**Second Report of Session 2022–23**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 28 June 2022*

## Committee on Standards

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

### Current membership

[Chris Bryant MP](#) (*Labour, Rhondda*) (Chair)

[Tammy Banks](#) (*Lay member*)

[Andy Carter MP](#) (*Conservative, Warrington South*)

[Alberto Costa MP](#) (*Conservative, South Leicestershire*)

[Rita Dexter](#) (*Lay member*)

[Allan Dorans MP](#) (*Scottish National Party, Ayr, Carrick and Cumnock*)

[Laura Farris MP](#) (*Conservative, Newbury*)

[Yvonne Fovargue MP](#) (*Labour, Makerfield*)

[Sir Bernard Jenkin MP](#) (*Conservative, Harwich and North Essex*)

[Dr Michael Maguire](#) (*Lay member*)

[Mehmuda Mian](#) (*Lay member*)

Victoria Smith (*Lay member*)

[Paul Thorogood](#) (*Lay member*)

### Powers

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

### Publications

© Parliamentary Copyright House of Commons 2022. This publication may be reproduced under the terms of the Open Parliament Licence, which is published at [www.parliament.uk/site-information/copyright-parliament/](http://www.parliament.uk/site-information/copyright-parliament/).

Committee reports are published on the Committee's website at [www.parliament.uk/standards](http://www.parliament.uk/standards) and in print by Order of the House.

### Committee staff

The current staff of the Committee are Paul Connolly (Media Relations Manager), Arvind Gunnoo (Committee Operations Officer), Dr Robin James (Head of staff team), and Stuart Ramsay (Acting Clerk).

### Contacts

All correspondence should be addressed to the Clerk of the Committee at the Committee's email address, [standards@parliament.uk](mailto:standards@parliament.uk). The telephone number for general enquiries is 020 7219 6615.

# Contents

---

<b>Code of Conduct: Procedural Protocol</b>	<b>3</b>
Grounds of appeal in Code of Conduct cases	3
Non-compliance with ICGS sanctions	3
Remedial action in the rectification procedure	4
<b>Annex: Procedural Protocol in relation to the Code</b>	<b>6</b>
<b>Formal minutes</b>	<b>24</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>25</b>

# Code of Conduct: Procedural Protocol

1. In a report published on 24 May 2022 we put before the House a draft new Code of Conduct and Guide to the Rules.<sup>1</sup> We announced in that report that we would shortly publish a Procedural Protocol, containing detailed information about the House's standards procedures incorporated in one document, plainly and accessibly written.<sup>2</sup> This implements a recommendation in the recent 'Ryder review' of fairness and natural justice in the House's standards system.<sup>3</sup>
2. We now publish our draft Procedural Protocol as an annex to this report, for approval by the House. We will implement immediately any changes to our own practices that do not require or rely on the approval of the House, to ensure they are in line with the relevant provisions in the Protocol.<sup>4</sup>
3. In the remainder of this short report we comment on some aspects of the Protocol where we have decided to modify the proposals set out in our May 2022 report. These comments should be read in tandem with the relevant passages in that report.

## Grounds of appeal in Code of Conduct cases

4. In our May 2022 report we accepted the Ryder review's proposal that a formal appeal process should be established in Code of Conduct cases, with the appellate body being the Independent Expert Panel (IEP). We set out proposed grounds of appeal.<sup>5</sup> These followed exactly the recommendation from Sir Ernest Ryder.
5. We have held further discussions with Sir Ernest and with Sir Stephen Irwin, Chair of the IEP.<sup>6</sup> In light of these we consider that the grounds of appeal should be expanded, to replace ground (c), that "the decision on sanction was unreasonable or disproportionate" with a revised ground (c), that "the decision of the Committee was unreasonable and/or, in relation to a sanction, disproportionate". This change would bring appeals in Code of Conduct cases into line with those in Independent Complaints and Grievance Scheme (ICGS) cases. However, we propose to add a proviso in the Protocol: "an appeal on ground (c) cannot be based simply on disagreement with the findings of fact in the case". Both Sir Ernest and Sir Stephen are content with this proposed change. ***We recommend that the grounds of appeal in Code of Conduct cases should be approved by the House with the modification proposed above.***

## Non-compliance with ICGS sanctions

6. In our May 2022 report, we stated in paragraph 159:

---

1 Committee on Standards, First Report of Session 2022–23, *New Code of Conduct and Guide to the Rules: promoting appropriate values, attitudes and behaviour in Parliament* (HC 227); hereafter cited as "May 2022 report".

2 *Ibid.*, paras 126–132

3 Committee on Standards, Sixth Report of Session 2021–22, *Review of fairness and natural justice in the House's standards system* (HC 1183), published on 8 March 2022. The review by Rt Hon Sir Ernest Ryder, former Senior President of Tribunals for the United Kingdom and former Lord Justice of Appeal, is set out as an annex to the report.

4 As set out in our May 2022 report, paras 133–143

5 May 2022 report, paras 151–52

6 The correspondence is published on the Committee's webpages.

One further issue Sir Stephen [Irwin] highlighted was the handling of cases where a Member may have failed to comply with a sanction imposed by the IEP. As this is a potential breach of the Code of Conduct rather than of the ICGS [Independent Complaints and Grievance Scheme] policies they are referred to the Commissioner for investigation, with the Committee taking any decisions on whether there has been a breach and on sanction. If the IEP is to have a role in adjudicating Code of Conduct cases, and would therefore in theory hear appeals in such cases anyway, Sir Stephen suggests that it may be simpler for the IEP to be able to enforce its own ICGS sanctions. This would mirror the Committee's role in dealing with any failure to comply with a sanction it has imposed.

7. Following further consultation with Sir Stephen Irwin, we consider that in such cases it would be unnecessary for the IEP first to refer the matter to the Commissioner as currently envisaged under Standing Order No. 150A(5)(g), since this Committee would not do so in an equivalent case.

8. Paragraph 18 of the existing Code gives authority for Members to be subject to the ICGS. The current Guide to the Rules provides that the Commissioner cannot therefore accept complaints under paragraph 18, and that other documents such as the Commissioner's Information Note do not apply to complaints under paragraph 18, since the ICGS follows separate processes.<sup>7</sup> We propose continuing this approach to paragraph 18 of the Code, and extending it to cover the rule that Members must comply with a sanction imposed by the Independent Expert Panel,<sup>8</sup> so that any case of non-compliance is dealt with under the Panel's own processes.

9. Our proposed Protocol therefore makes clear that its procedures and provisions do not apply to the investigation and adjudication of rules in the Code that pertain to the ICGS (namely the existing paragraph 18 and the rule that Members must comply with a sanction imposed by the Independent Expert Panel, which would become rules 1 and 16 respectively in our proposed revised Code), and that the Commissioner cannot accept complaints about these rules (because these must be made to the ICGS in the first instance). ***We recommend that the House approve this approach.***

## Remedial action in the rectification procedure

10. In the course of producing a draft Procedural Protocol, we have become aware that the existing provisions for remedial action (when a breach of the Code is subject to the rectification procedure) are unclear.

11. The process and requirements for rectification are set out in Standing Order No. 150(4) and Chapter 4 of the Guide to the Rules. Standing Order 150(4) appears to require repayment in facilities cases and envisages this Committee (rather than the House)

7 Guide to the Rules, p 41, footnotes 67 and 68

8 Votes and Proceedings, 23 June 2021, which added to the Code that: "Failure to comply with a sanction imposed by a sub-panel of the Independent Expert Panel shall be treated as a breach of the Code."

establishing conditions for rectifying cases of non-declaration or non-registration;<sup>9</sup> but Chapter 4 of the Guide appears by contrast to require an apology on a point of order for non-declaration and correction of the Register for non-registration, but only “normally” requiring reimbursement in the case of misuse of facilities.<sup>10</sup>

12. When the House agreed an updated suite of sanctions on 19 April 2021, the list of sanctions available to the Commissioner did not (due to an oversight) reflect the existing provision in the Guide that the Commissioner may require an apology on a point of order to rectify a case of non-declaration. A detailed process for this was set out in Appendix 1 to the Committee on Standards and Privileges’ Third Report of Session 2012–13, following evidence from the then Clerk of the House.<sup>11</sup>

13. Our proposed Protocol allows the Commissioner flexibility in the choice of remedial action which she may require as part of a rectification, but provides that the Commissioner will “normally” require correction and annotation of the Register to rectify cases of non-registration, and “normally” require reimbursement to rectify cases of misuse of facilities. We would expect that the Commissioner would therefore give reasons for departing from this (for example, if the sums involved in a misuse of facilities case were negligible). Our proposed Protocol also reflects the Commissioner’s power to require an apology on a point of order, which was authorised by the House when it approved the current Code of Conduct and Guide to the Rules, but does not limit its use solely to cases of non-declaration, as the Commissioner may consider it appropriate for other breaches.

14. ***We recommend that the House agree, through the Protocol, the updated list of remedial action available to the Commissioner as part of the rectification procedure.***

---

9 Standing Order No. 150(4) provides that the Commissioner can conclude an investigation by means of the rectification procedure in cases of non-registration or non-declaration where “the interest involved is minor, or the failure was inadvertent”, and where “the Member concerned has taken such action by way of rectification as the Commissioner may have required within any procedure approved by the Committee for this purpose”; and cases of misuse of facilities where the Member “has made [...] reimbursement” of the cost of facilities wrongly used or claimed.

10 The Guide currently provides that “in the case of non-registration, rectification requires a belated entry in the current Register in bold italic type with an appropriate explanatory note. In the case of non-declaration, it requires an apology to the House by means of a point of order in accordance with the procedure established for such apologies by the Speaker. In cases involving parliamentary facilities or resources, the rectification procedure normally requires the Member to make any repayment or other relevant rectification.”

11 Committee on Standards and Privileges, Third Report of Session 2012–13, *Proposed Revisions to the Guide to the Rules relating to the conduct of Members* (HC 636), Appendix 1, paras 196-98

# Annex: Procedural Protocol in relation to the Code

---

## Introduction

1. This Protocol set outs the process for dealing with cases concerning Members' adherence to the Code of Conduct for Members of Parliament.

2. The Code of Conduct states:

The application of this Code shall be a matter for the House of Commons, and particularly for the Committee on Standards, the Independent Expert Panel and the Parliamentary Commissioner for Standards in accordance with Standing Orders.

3. Nothing in this Protocol applies directly to the Independent Complaints and Grievance Scheme (ICGS). Information about the ICGS, and the processes in ICGS cases of the Parliamentary Commissioner for Standards and the Independent Expert Panel, can be found on their respective webpages.<sup>1</sup>

4. This Protocol is approved by the House of Commons. It has the same authority as the Code of Conduct and the Guide to the Rules.<sup>2</sup> Minor or purely administrative changes to the Protocol may be made on the authority of the Committee on Standards; major changes, including any changes which impact significantly upon the rights of Members or others, will require the express approval of the House.

5. The House's standards system is based on an inquisitorial process. The Parliamentary Commissioner for Standards, the Committee on Standards and the Independent Expert Panel all follow an inquisitorial process. The test for a breach of the Code is whether the allegation has been proved on the balance of probabilities, that is, that it is more likely than not to have happened.

## Chapter 1: Allegations under the Code

### *What allegations can be made*

6. The Code of Conduct states:

The Parliamentary Commissioner for Standards may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code and the rules relating to upholding the Code, under the provisions of Standing Order No. 150(2)(e). The Commissioner is not able to investigate alleged breaches of the Seven Principles of Public Life in themselves, but will take the Principles into account when considering allegations of breaches of the rules.

---

1 The investigation and adjudication of rule 1 and rule 16 in the Code, which relate to the Independent Complaints and Grievance Scheme, therefore fall outside the scope of this Protocol.

2 The Protocol includes material which has previously been part of the Code of Conduct for Members or the Guide to the Rules.

7. This means that the Commissioner can only accept allegations about breaches of the rules of conduct and the rules relating to upholding the Code (the numbered paragraphs in the Code of Conduct), not about breaches of the Seven Principles of Public Life.

### ***Who can submit an allegation***

8. Any individual can submit an allegation of a breach of the rules, including a member of the public or a Member of Parliament.

9. The Commissioner will not accept allegations made by an organisation (for example, on behalf of a business, charity, or local authority) or allegations made anonymously.

10. The Commissioner will not accept allegations made on behalf of another person unless this is agreed as part of a reasonable adjustment for a disability. The Commissioner and their office will make reasonable adjustments whenever possible in order to make the complaints process accessible to all.

### ***Information required when making an allegation***

11. An allegation must be made in writing, either in hard copy sent through the post or by email.

12. The person making the allegation must provide:

- a) their full name and postal address. (If the Commissioner opens an investigation, they will share with the Member only the name of the person making the allegation. Address details will be redacted in any correspondence with the Member and any eventual publication. The name of a complainant who is a member of the public will normally be redacted from any eventual publication.)
- b) a clear explanation detailing how they think the Member has breached one of the rules of conduct or rules relating to upholding the Code (the numbered paragraphs in the Code of Conduct).
- c) any evidence available to support their allegation. It is not sufficient to make an allegation and expect the Commissioner to look for supporting evidence.<sup>3</sup>

13. As a basic courtesy any Member of the House (or a Member of the House of Lords) making an allegation about another Member to the Commissioner must, at the same time, send a copy of their allegation to the Member concerned.

## **Chapter 2: The Commissioner's processes**

### ***The role of the Parliamentary Commissioner for Standards***

14. The Parliamentary Commissioner for Standards is appointed to investigate allegations of breaches of the Code of Conduct for Members of Parliament. The role and powers of the Commissioner are set out in [Standing Order No. 150](#).

---

3 Select Committee on Members' Interests, First Report, Session 1992-93, paragraph 4

### ***What the Commissioner can investigate***

15. The Commissioner can investigate alleged breaches of the rules of conduct, and the associated rules which are set out in the [Guide to the Rules](#), and alleged breaches of the rules relating to upholding the Code.

16. The Commissioner can investigate alleged breaches of the rules for All-Party Parliamentary Groups, under rule 10 of the Code.

### ***What the Commissioner cannot investigate***

17. The Commissioner cannot investigate allegations solely about breaches of the Seven Principles of Public Life.

18. The Commissioner cannot investigate the following, unless as part of an investigation into an alleged breach of rule 11 of the Code:

- a) policy matters;
- b) a Member's views or opinions, including those expressed on social media;
- c) a Member's handling of or decision about their casework, including their handling of correspondence, whether or not anyone involved is a constituent of the Member.

19. The Commissioner cannot investigate in any circumstances:

- a) conduct in the Chamber, which is a matter for [the Speaker](#);
- b) alleged breaches of the scheme for parliamentary expenses, which are matters for the [Independent Parliamentary Standards Authority](#) (IPSA);
- c) allegations of criminal misconduct, which are normally a matter for the police;
- d) the funding of political parties and the permissibility of donations, which are matters for the [Electoral Commission](#);
- e) allegations of breaches of the [Ministerial Code](#), which governs the conduct of government Ministers in their capacity as Ministers and which are matters for the Cabinet Office;
- f) allegations relating to a Member's purely private and personal life.

20. Complaints of harassment, bullying or sexual harassment must be made through the Independent Complaints and Grievance Scheme (ICGS) in the first instance, not to the Commissioner.

### ***Initiating an investigation***

21. The Commissioner can start an investigation into an alleged breach of the rules that have been brought to their attention in the following ways:

- a) allegations brought to their attention by a complainant;

- b) matters brought to their attention by the Member concerned (self-referral);
- c) investigations on their own initiative;
- d) matters which arise during the course of an investigation; and
- e) matters referred to them by IPSA and certain other bodies.<sup>4</sup>

22. The Commissioner cannot accept complaints about rules 1 or 16 in the Code, which are provisions relating to the Independent Complaints and Grievance Scheme.

### *Accepting or rejecting allegations*

23. Before beginning a formal investigation, the Commissioner must first be satisfied that the matter falls within their remit. They will then consider whether the evidence provided is sufficient to justify beginning an investigation. The Commissioner may sometimes ask for more information from a complainant before deciding whether to open an investigation.

24. It is for the Commissioner alone to decide whether a formal investigation would be justified or proportionate. The House has approved the general principle that the Committee on Standards does not seek to direct the Commissioner's operational decision-making.<sup>5</sup>

25. The Commissioner may ask the Member or third parties straightforward factual questions before reaching a decision on whether to begin a formal investigation. For example, in stationery complaints they may seek confirmation that House-provided stationery was used.

26. If the Commissioner decides to conduct a formal investigation, they will write to the person who has made the allegation and provide them with a copy of this Protocol. The receipt of a complaint or the initiation of an investigation by the Commissioner does not imply that there has been a breach of the rules of the House.

27. If the Commissioner considers that:

- a) the allegations fall within their remit;
- b) there is sufficient evidence to justify the initiation of an investigation into whether a Member has breached the Code of Conduct; and
- c) an investigation would be proportionate—

then the Commissioner will initiate the investigation.

28. If the Commissioner decides that:

---

<sup>4</sup> Complaints about the misuse of the scheme for parliamentary expenses since May 2010 are a matter for the Independent Parliamentary Standards Authority. However, where the Independent Parliamentary Standards Authority or its Compliance Officer consider that a Member's conduct justifies it, they shall refer that Member, with the relevant evidence, to the Commissioner for the Commissioner to decide whether to investigate a potential breach of the Code of Conduct and its associated rules.

<sup>5</sup> Votes and Proceedings, 7 January 2019; which approved the Committee on Standards' Fifth Report of Session 2019-21.

- a) there is not sufficient evidence of a breach; or
- b) that an investigation would be disproportionate (given the nature and/or relative seriousness of the allegation); or
- c) that the matter falls outside their remit—

then they will not initiate an investigation, and will write to the person who has made the allegation giving brief reasons for their decision.

29. The Commissioner will report briefly to the Committee on formal complaints and allegations submitted.

30. The Commissioner's decision not to conduct a formal investigation is final and cannot be appealed. However, if additional evidence comes to light, the allegation can be resubmitted, and the Commissioner will consider it afresh.

### ***Starting a formal investigation***

31. If the Commissioner decides to begin a formal investigation, they will do the following:

- a) Write to the person who made the allegation to tell them of the decision to begin an investigation and explain that their correspondence is confidential and subject to parliamentary privilege.
- b) Send an "initiation letter" to the Member. This will:
  - i) include a copy of the complaint, along with the evidence provided in support of the allegation;
  - ii) set out what will be investigated and provide details of the relevant rules engaged; and
  - iii) inform the Member about the confidentiality requirements that apply to their investigations.
- c) Ask the Member for their response to the allegation, and ask any questions that the Commissioner deems appropriate.
- d) Offer a meeting with the Member at the outset of the investigation.

### ***During the investigation***

32. Rule 12 of the Code of Conduct (rules relating to upholding the Code) provides that:

Members must co-operate at all times with the Parliamentary Commissioner for Standards in the conduct of any investigation and with the Committee on Standards and the Independent Expert Panel in any subsequent consideration of a case.

33. Members should respond personally to the Commissioner during an investigation. The Commissioner will not normally correspond with a legal adviser or other third party responding on behalf of a Member (though Members may take legal advice during an investigation).

34. The Commissioner will disclose to the Member all the evidence she considers as part of an investigation.

### *Meetings with the Commissioner*

35. A Member under investigation may request to meet the Commissioner during the investigation, for example, to ask the Commissioner to explain the procedure of their investigation. Such a meeting may be in person or online. A Member may be accompanied by a legal adviser at any meeting with the Commissioner.

36. The Commissioner will always make a contemporaneous note or a recording of any interview or meeting with the Member and any witnesses (unless the meeting relates solely to a Member's welfare), and agree the accuracy of that note or transcript of the recording with the Member/witness.

### *Extending scope*

37. If, during the course of an investigation, the evidence causes the Commissioner to identify a possible additional breach of the rules, they will draw that to the attention of the Member, setting out the relevant rule(s) and giving the Member a fair opportunity to respond to that specific matter.

### *Steps the Commissioner may take during an investigation*

38. The Commissioner may take any of the following actions during their investigation, at their sole discretion:

- a) Ask the Member follow-up questions during the investigation, in interview, or by letter;
- b) Request the Member to attend for formal interview, either in person or remotely, at any stage;
- c) Seek evidence from witnesses, including any identified by the Member (the Commissioner will normally reimburse the reasonable cost of travel to London by a witness, though lost earnings are not paid);
- d) Consult authorities, such as the relevant Department of the House of Commons or the Registrar of Members' Financial Interests;
- e) Refer a point of principle to the Committee on Standards (before completion of the investigation); and/or
- f) Ask the Committee on Standards to use its powers to summon persons, papers, or records in support of her investigation.

### *Suspension of investigations*

39. The Commissioner has the discretion to suspend investigations at any time. This may, for example, happen if the Member suffers ill health or a bereavement during the investigation, or where a related police investigation is taking place.

40. If Parliament is dissolved or the Member otherwise ceases to be a Member while an investigation is in progress, the Commissioner will suspend their investigation until the Member is re-elected. If the Member is not returned to Parliament, the Commissioner will decide if it is appropriate and proportionate to resume their investigation.

### *Outcomes of an investigation*

41. The Commissioner will not provide details about the progress of the investigation to the person who made the allegation before it is concluded. At the end of their investigation, the Commissioner will write to the Member and the person who made the allegation, informing them of the Commissioner's opinion as to whether there has been a breach of the Code.

42. The Commissioner may take the Seven Principles of Public Life into account when considering whether or not there has been a breach of the Code.

43. There are three possible outcomes of an investigation: the Commissioner may—

- a) consider that there has not been a breach of the Code;
- b) consider that there has been a breach of the Code and conclude the investigation using the rectification procedure; or
- c) consider that there has been a breach of the Code and refer the case to the Committee on Standards for a decision.

### *No breach*

44. If the evidence does not substantiate the allegation on the balance of probabilities, the Commissioner will report that they consider that there has been “no breach”.

45. The letter containing the outcome, the Commissioner's reasoning, and the evidence relevant to that investigation, will be published on the Commissioner's webpages, unless the procedure set out in paragraph 45 is adopted. The Commissioner will notify the Committee on Standards when they report on a case where there has been “no breach”.

46. The Commissioner may decide to submit a memorandum to the Committee into an allegation where the Commissioner considers there has been no breach. This may be because of the particular seriousness of the allegation or because the investigation raises matters of wider interest or relevance. The Committee will then consider the Commissioner's conclusions and submit its own report to the House.

### *Rectification*

47. If, on the balance of probabilities, the evidence demonstrates a breach of the rules, the Commissioner will report that they consider that there has been a breach of the Code.

48. In circumstances defined by Standing Order No. 150(4), the Commissioner may then conclude the investigation using the rectification procedure, without making a referral to the Committee on Standards.

49. The rectification procedure can only be used for some rules in the Code of Conduct. Concluding an investigation through rectification requires that a Member agrees with the Commissioner's opinion that there has been a breach, and takes any remedial action that the Commissioner considers appropriate. The Commissioner will require an apology from the Member as part of any rectification.

50. If the Member does not agree with the Commissioner's opinion that there has been a breach of the Code, or does not undertake (or agree to undertake) the remedial action, then the Commissioner will refer the case to the Committee on Standards.

51. The actions open to the Commissioner to require as part of any rectification procedure include:

Remedial action	Details
Words of advice to the Member	Either informal or formal
Written apology	
Apology on a point of order	
Correction and annotation of the Register of Members' Financial Interests	Normally required where a registered interest has been subject to the rectification procedure.
Repayment of money	Normally required where House-provided resources have been misused or wrongly claimed, for example, stationery or room bookings.

52. The letter containing the outcome, the Commissioner's reasoning, and the evidence relevant to that investigation, will be published on the Commissioner's webpages. The Commissioner will notify the Committee on Standards when they conclude an investigation through the rectification procedure.

### *Referral to the Committee on Standards*

53. If the Commissioner considers that, in their opinion, there has been a breach of the Code, but that:

- a) it is unsuitable for the rectification procedure; or
- b) the Member does not accept their opinion that there has been a breach; or
- c) the investigation raises issues of wider importance—

then the Commissioner must make a referral to the Committee on Standards.

54. The referral will take the form of a memorandum. In the memorandum, the Commissioner will report their opinion on issues of fact and their opinion as to whether there has been a breach of the Code. The Committee will then decide whether there has been a breach of the Code (see Chapter 4).

55. Before sending a memorandum to the Committee, the Commissioner will provide the Member with an opportunity to comment on the draft of the factual sections of any written evidence or memorandum.

56. The Commissioner will give careful consideration to any comments received by the Member. However, the final decision on the contents of the memorandum is a matter for the Commissioner alone. The Commissioner will append to the memorandum all the evidence which they have received and considered in the investigation.

## **Chapter 3: The Committee's processes**

### ***The role of the Committee on Standards***

57. The Committee on Standards is a select committee, appointed under Standing Order No. 149. The role of the Committee is to adjudicate on standards cases, to oversee the work of the Parliamentary Commissioner for Standards and to consider policy relating to standards.

58. It is for the House, and not the Committee, to make final decisions on what standards it expects of its Members and therefore the House agrees the Code of Conduct and the Guide to the Rules, as well as this Protocol.

59. The Committee's remit and powers are set out in Standing Order No. 149.

### ***Meetings of the Committee***

60. The Guide to the Rules provides that:

[...] a Member who has a personal interest which may reflect upon the work of the Committee or its report should stand aside from the Committee proceedings relating to it.<sup>6</sup>

61. Any member of the Committee who is the subject of an investigation by the Commissioner or who is otherwise connected to an investigation in such a way as to have a personal interest in it should withdraw from relevant proceedings.

62. If a Member is absent for anything other than a very small proportion of the Committee's evidence-taking or deliberations in an individual case, the House requires them to take no further part in the case.

63. Meetings of the Committee on Standards to deliberate on individual cases are conducted in private. If oral evidence is taken in an individual case, whether from the Member concerned or witnesses, the Committee's usual practice is to take this in private. A transcript (redacted at the Committee's discretion) will always be produced and will usually be published alongside the eventual report.

64. The Commissioner will not be present when the Committee deliberates on an individual case (but may be present for other items on the Committee's agenda at the same meeting), nor will the Commissioner make an oral statement to the Committee on the contents of the memorandum. If the Committee requires further information in relation

---

6 Guide to the Rules, Chapter 2, para 8(c)

to a case, the Committee Clerk will send a request to the Commissioner. Any further information received from the Commissioner will be shared with the subject Member by the Clerk.

### ***Reports from the Commissioner and subsequent actions by the Committee***

65. A copy of the Commissioner's memorandum, once received by the Committee, is sent in confidence by the Clerk to the subject Member.

66. The Clerk will invite the Member to submit written evidence and ask them if they wish to request to give oral evidence. Whether to accept such a request is at the discretion of the Committee, but the Committee will normally agree to any such request; and may in certain instances require the Member to attend to give oral evidence.

67. A Member who gives oral evidence is entitled to be accompanied by a legal representative or representatives, but they may only privately advise the Member, not address the Committee.

68. The Committee will not draw an adverse inference from a Member choosing not to submit written evidence at the outset of the Committee's consideration of the case, or choosing not to request to give oral evidence. The Committee may, however, draw inferences from a Member failing or refusing to provide written evidence, or refusing to appear to give oral evidence, where this is requested or ordered by the Committee.<sup>7</sup>

### ***Initial discussion by the Committee***

69. The Committee will not consider a case substantively before it has received written evidence from the Member (where they have indicated that they wish to provide written evidence).

70. When the Committee begins substantive consideration, it will hold an initial discussion. At its initial discussion the Committee will consider procedural issues which may include (but are not limited to):

- a) Whether it is satisfied that the Commissioner has conducted a proper investigation and has provided it with all the information it requires;
- b) If it wishes to ask the Commissioner for further information;
- c) Any request from a Member to give oral evidence;
- d) Any representations from the Member to take oral or written evidence from specified witnesses or to put specified questions to witnesses; and
- e) Whether it wishes, exceptionally, to seek written or oral evidence from other witnesses.

### *Decision on a breach*

71. The Committee will normally make a provisional decision on whether there has been a breach of the Code to assist the Chair in producing a draft report for consideration at its next meeting. The Committee's decision on whether there has been a breach, and if so on whether to impose or recommend to the House any sanction, is formally taken, however, at the point it agrees its report.

### *Publication of the Committee's report*

72. The Committee publishes its decision by means of a Report to the House. The Commissioner's memorandum and any written evidence from the subject Member is appended to the Committee's Report and published with it. Evidence accompanying the Commissioner's memorandum, any transcripts of oral evidence, and any further written evidence, is published on the Committee's webpages.

73. The Committee will make every effort to publish its reports on individual cases as quickly as possible, subject to the need for fair treatment of all concerned.

74. By authority of the Committee, embargoed copies of its reports are made available to the Member concerned, as well as to a complainant if they are an injured party, one hour before publication.

75. Embargoed copies are not made available to the press, and no advance notice is given to the press of publication, but the Committee normally issues a press notice at the same time that the report is published.

### *Dissolution*

76. If Parliament is dissolved during the Committee's consideration of a case, it will resume its consideration once the Committee is re-established, whether or not the subject Member has been returned at the election.

### *Witnesses*

77. The Liaison Committee has stated that, while it is right for witnesses to be tested on their competence, all witnesses should be able to give their best evidence and treated with courtesy and respect.

78. Where the Committee takes oral evidence from a witness, the Clerk will make the necessary arrangements with the witness and, where appropriate, will inform a witness of the impending publication of the Committee's report.

## **Chapter 4: Sanctions**

79. If the Committee decides that there has been a breach of the Code, it will normally impose or recommend to the House a sanction.<sup>8</sup> It is open to the Committee to decide that there has been a breach but that there should be no further action.

---

8 An updated suite of sanctions was agreed by the House on 19 April 2021.

### **Possible sanctions**

80. The sanctions the Committee may impose on its own authority include (but are not limited to):

- a) an apology in writing, which would normally be published, or on the floor of the House by means of a point of order or a personal statement;
- b) requiring a Member to attend training, or to repay money;
- c) withdrawal of services and facilities from a Member, and imposing other personal restrictions including on travel, where this will not affect the core functions of a Member;<sup>9</sup>
- d) for non-Members, subject to the approval of the Speaker, withdrawal of Parliamentary passes, either indefinitely or for a fixed period.

81. The Committee may also recommend remedial action which is open to the Commissioner to require as part of the rectification procedure (see Chapter 2, paragraph 50).

82. The Committee may recommend the following sanctions for decision by the House:

- a) withdrawal of services and facilities from a Member, and imposing other personal restrictions including on travel, where this will affect the core functions of a Member,<sup>10</sup> and where the sanction affects the nature of the offence;
- b) dismissal from a select committee;
- c) suspension from the service of the House for a specified period (during which time the Member receives no salary and must withdraw from the precincts of the House);
- d) withholding of a Member's salary or allowances even if the Member has not been suspended;
- e) in the most serious cases, expulsion from the House.

83. In all but exceptional circumstances, in a case where the Committee decides that rule 11 of the Code has been breached,<sup>11</sup> it will recommend that the House sanction such a breach through suspension or expulsion.

84. While it is for the House itself to decide on the matters set out in the list above, its practice has been to accept the Committee's recommendations on sanctions.

---

9 The core functions of a Member are defined as (a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents. If the Panel or the Committee is in any doubt as to whether a sanction would interfere with core functions, they would be expected to seek the views of the House authorities where appropriate, and to err in their decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter. See Committee on Standards, Twelfth Report of Session 2019-21, Sanctions and confidentiality in the House's standards system: revised proposals (HC 1340), Annex, footnote 16.

10 See previous footnote.

11 Rule 11 provides that: Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

85. The “core functions” of a Member, referred to in paragraphs 79 and 81, are defined as “(a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents”. The House has decided that if the Committee is in any doubt as to whether a sanction would interfere with core functions, they would be expected to seek the views of the House authorities where appropriate, and to err in their decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter.<sup>12</sup>

### ***Motions consequent on reports of the Committee***

86. Where the Committee has recommended a sanction that requires a decision of the House and:

- a) the Member has confirmed to the Chair of the Independent Expert Panel that they do not wish to appeal; or
- b) the deadline for appeals has lapsed; or
- c) the Panel has dismissed the appeal; or
- d) the Panel has recommended a different sanction that requires a decision of the House—

the relevant motion shall be taken on the floor of the House, without debate or amendment, within five sitting days.

## **Chapter 5: Appeals**

### ***Submission of appeals***

87. A Member may appeal to the Independent Expert Panel (the Panel) against a decision by the Committee on Standards (the Committee) that they have breached the Code of Conduct and/or on the appropriate sanction to be imposed for that breach.

88. Appeals must be submitted in writing by the Member, in a form consistent with any guidance issued by the Panel, to the Chair of the Panel by 4.00 pm on the tenth working day following the day of publication of the relevant report by the Committee. The Chair of the Panel may vary this deadline if there are extenuating circumstances.

89. The Chair of the Panel will notify the Chair of the Committee that either an appeal has been made; that a Member has confirmed that they will not make an appeal; or that the deadline for appeals has lapsed. If the Committee’s recommended sanction requires a decision by the House, the Chair of the Panel will also notify the Speaker and the Leader of the House whether an appeal has been made or not.

90. The appeal must be brought under one or more of the following grounds:

---

12 See Committee on Standards, Twelfth Report of Session 2019-21, Sanctions and confidentiality in the House’s standards system: revised proposals (HC 1340), Annex, footnote 16; and Votes and Proceedings, 19 April 2021, item 9.

- a) The investigation by the Parliamentary Commissioner for Standards was materially flawed in a way that affected the decision of the Committee;
- b) The process followed by the Committee was procedurally flawed;
- c) The decision of the Committee was unreasonable and/or, in relation to a sanction, disproportionate;
- d) Credible fresh evidence has become available, which could not have been presented before the Committee made its decision, and which, if accepted has a real prospect of affecting the outcome; and/or
- e) Exceptionally, there is another compelling reason that an appeal should be heard or allowed.

An appeal on ground (c) cannot be based simply on disagreement with the findings of fact in the case.

### ***Management of appeals***

91. The Chair of the Panel will appoint a sub-panel of three members of the Panel (the sub-panel) to decide an appeal. If appropriate, he may decide to appoint the same sub-panel to consider appeals from several different appellants together.

92. It is for the sub-panel, once appointed, to decide on how best to manage a case in accordance with Standing Orders, this Protocol, and any guidance for appellants published by the Panel. Appellants must comply with any directions given by a sub-panel.

93. The sub-panel will first consider whether the issues raised in an appeal fall within one or more of the grounds for appeal and whether there is any substance to the grounds. If it decides that there are substantive grounds for appeal, it will then reach a conclusion on the merits.

94. Appeals will normally be decided based on written submissions. The sub-panel may, exceptionally, decide to hold an oral hearing with an appellant where there is a specific reason for doing so.

95. As with the Committee, Members may not be represented in front of a sub-panel, and must make any submissions or representations to the Panel or a sub-panel themselves (unless otherwise agreed as a reasonable adjustment). Members may take legal or other advice in preparing an appeal, and may be accompanied at any oral hearing.

96. If Parliament is dissolved during an appeal, the Panel would resume the appeal once the new Parliament meets, unless the subject Member indicates that they no longer wish to proceed with the appeal.

### ***Outcome of appeals***

97. A sub-panel may:

- a) Dismiss an appeal; or

- b) Uphold an appeal in full or part.
98. For each decision against which a sub-panel upholds an appeal it may decide to:
- a) Remit the decision back to the Committee for further consideration or investigation; or
  - b) Substitute its own decision for the Committee's (whether on breach or on sanction).
99. It is for the sub-panel to decide on the facts of the case whether it is appropriate and proportionate for it to remit a decision to the Committee or to substitute its own.
100. Exceptionally, the sub-panel may increase a recommended sanction to reflect further aggravating factors in relation to events subsequent to the Committee's decision; or if it finds that an original decision that has been appealed was unduly lenient.
101. A decision by a sub-panel may not be appealed further.

### ***Publication of reports***

102. The sub-panel's decision on the appeal and their reasons will be notified to the Chair of the Panel. The Chair of the Panel will normally publish them in a Report to the House once they are received, with any relevant submissions, written evidence, and the transcript of any oral hearing appended.
103. The Chair may decide to redact, summarise, or delay publication of, all or parts of a sub-panel decision or the associated submissions and evidence if appropriate. This may be in order, for example, to protect sensitive personal or medical information or to avoid prejudicing further investigations the Committee may request because of the decision. In these circumstances a full copy of the decision will be provided to the appellant(s), and the Committee.

## **Chapter 6: Confidentiality and privilege**

### ***Parliamentary privilege and the Commissioner***

104. Communications between a member of the public and the Commissioner are not covered by parliamentary privilege unless and until the Commissioner has accepted the matter for investigation.
105. Once the Commissioner has accepted a matter for investigation, the evidence given to that investigation and any related correspondence, including any electronic communication, is covered by parliamentary privilege.
106. A person making an allegation is not protected from legal action (for example, for defamation of character) unless and until the Commissioner decides to begin an investigation. Even then, parliamentary privilege will protect only the material given to the Commissioner. It will not protect anything said to others.
107. Evidence given to the Commissioner and correspondence about the investigation should generally not be made available to anyone other than the Commissioner. If any

related material were to be published or disclosed to anyone else without the Commissioner's agreement, that may be treated as a contempt of the House. Any other material made public may not be covered by parliamentary privilege.

108. Any person asked to give or provide evidence by the Commissioner should cooperate fully and frankly with the Commissioner in the public interest and in the interests of justice. Any attempts to obstruct an investigation may be treated as a contempt of the House of Commons.

### ***Parliamentary privilege, the Committee and Panel***

109. All the Committee's proceedings are covered by parliamentary privilege.

110. It is a breach of privilege, or a contempt, for committee proceedings to be disclosed before they have been reported to the House. This applies to:

- a) the content of a committee's private deliberations;
- b) written evidence submitted to a committee until it is in the public domain;
- c) oral evidence given to a committee until it is in the public domain; and
- d) draft reports prior to their publication.

111. The work of the Independent Expert Panel in hearing appeals under the Code of Conduct is similarly covered by parliamentary privilege.

### ***Publication of material by the Commissioner***

112. The Commissioner publishes on their webpages the names of Members currently subject to investigation, alongside brief details of the paragraph(s) of the Code of Conduct it is alleged a Member has breached.<sup>13</sup> The Commissioner would normally allow time for the Member to receive notice of the inquiry before making these details available on their webpages.

113. The Commissioner will not at any time discuss details of an allegation or an investigation with third parties.

114. The Commissioner publishes all the relevant evidence gathered during an investigation on their webpages if the outcome of the investigation is "no breach" (unless the procedure in paragraph 45 is followed), or if they conclude the investigation through the rectification procedure.

115. Where a memorandum has been submitted to the Committee, but the Committee has not yet concluded its consideration of the case, the Commissioner will not publish any information about the matter. The Committee, rather than the Commissioner, will publish the memorandum and accompanying written evidence when it publishes its report.

116. The Commissioner will normally publish copies of all the correspondence received during the investigation and transcripts of any oral evidence given during a formal interview.

117. The Commissioner will redact the personal data of individuals other than the Member(s), who are referred to in written evidence packs or a memorandum, unless this information is already in the public domain, and they will consider requests to redact further personal or sensitive information from the Member or (where relevant) witnesses.

### *Confidentiality during a Code of Conduct case*

118. From the point that the Commissioner opens an investigation, the Member may only share details of the investigation with:

- a) a very limited number of friends or family members; and/or
- b) a specific whip who can advise and support them during an investigation; and/or
- c) a legal or medical adviser.

119. These conditions apply until the outcome is published, whether by the Commissioner or the Committee. The conditions apply again during the period of an appeal, until the final outcome is published by the Panel.

120. The conditions also apply during the period of a reconsideration by the Committee, in the event that the Panel remit a case following an appeal, until the new outcome is published by the Committee.

121. The Member should ensure that anyone with whom they share information about the investigation or consideration of the case is also aware that the matter remains confidential, and they should not discuss the matter with anyone else.

122. Evidence given to the Commissioner during an investigation, any related correspondence, and any evidence given to the Committee or Panel during their consideration of the case, remains confidential unless and until it is published by the Commissioner, the Committee or the Panel.

123. Individuals who have made allegations of misconduct should also respect the confidentiality of the investigation and should not share information with the media while an investigation is ongoing.

### *Correcting misreporting*

124. In circumstances where significantly incorrect information about the allegation has been made public, the injured party (the subject Member, or a complainant where relevant) may apply to the Commissioner for permission to issue a public rebuttal; if the Commissioner agrees to such a rebuttal it must be factual, not argumentative, as brief as possible, and its text must be agreed with the Commissioner in advance.

### *Confidentiality requirements for members of the Committee on Standards*

125. What is said and done at private meetings of the Committee on Standards is strictly confidential and should not be disclosed to others—including a Member's own staff—

without the express authority of the Committee. All committee papers are confidential to the members and staff of the Committee (and to the Commissioner and their staff) unless and until they are published by the Committee's authority.

***Lobbying in relation to breaches of the Code or sanction***

126. Rule 14 of the Code provides that:

Members must not lobby members of the Committee on Standards or the Independent Expert Panel; the Parliamentary Commissioner for Standards; or the staff of those bodies in a manner calculated or intended to influence their consideration of a breach or a sanction in an individual case. This rule applies both to cases in respect of the Code of Conduct and cases under the Independent Complaints and Grievance Scheme.

127. This rule does not prohibit a Member from making representations to the Commissioner in respect of their own individual case.

# Formal minutes

---

**Tuesday 28 June 2022**

**Members present:**

Chris Bryant, in the Chair

Tammy Banks

Andy Carter

Alberto Costa

Rita Dexter

Yvonne Fovargue

Sir Bernard Jenkin

Dr Michael Maguire

Mehmuda Mian

Victoria Smith

Paul Thorogood

Draft report (*Code of Conduct: Procedural Protocol*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 14 read and agreed to.

Annex agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149(8)).

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

**Adjournment**

The Committee adjourned.

# List of Reports from the Committee during the current Parliament

---

All publications from the Committee are available on the [publications page](#) of the Committee's website.

## Session 2022–23

Number	Title	Reference
1st	New Code of Conduct and Guide to the Rules: promoting appropriate values, attitudes and behaviour in Parliament	HC 227

## Session 2021–22

Number	Title	Reference
1st	Boris Johnson	HC 549
2nd	Mrs Natalie Elphicke, Sir Roger Gale, Adam Holloway, Bob Stewart, Theresa Villiers	HC 582
3rd	Mr Owen Paterson	HC 797
4th	Review of the Code of Conduct: proposals for consultation	HC 270
5th	Daniel Kawczynski	HC 1036
6th	Review of fairness and natural justice in the House's standards system	HC 1183
7th	All-Party Parliamentary Groups: improving governance and regulation	HC 717

## Session 2019–21

Number	Title	Reference
1st	Kate Osamor	HC 210
2nd	Stephen Pound	HC 209
3rd	Greg Hands	HC 211
4th	Conor Burns	HC 212
5th	Mr Marcus Fysh	HC 213
6th	Confidentiality in the House's standards system	HC 474
7th	Sanctions in respect of the conduct of Members	HC 241
8th	David Morris	HC 771
9th	Dr Rosena Allin-Khan	HC 904
10th	The House of Commons and the criminal law: protocols between the police and the Parliamentary Commissioner for Standards and the Committee on Standards	HC 883

<b>Number</b>	<b>Title</b>	<b>Reference</b>
11th	ICGS investigations: Commons-Lords agreement	HC 988
12th	Sanctions and confidentiality in the House's standards system: revised proposals	HC 1340