



House of Commons
Committee on Standards

David Morris

Eighth Report of Session 2019–21

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

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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.

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Publications

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Report

1. This Report arises from a complaint to the Parliamentary Commissioner for Standards that David Morris MP had breached the paid advocacy rule (paragraph 12 of the Code of Conduct) when he asked a Topical Question on 22 October 2019. The Commissioner also considered whether Mr Morris breached the rule on declaration of interests (paragraph 14 of the Code of Conduct).
2. The Commissioner further considered whether Mr Morris breached the same rules in his email to the Secretary of State for Business, Energy, and Industrial Strategy on the following day, 23 October 2019, which Mr Morris disclosed during the course of the investigation.
3. The Commissioner has supplied us with a memorandum relating to these matters, which we publish as an appendix to this report.¹ Mr Morris submitted further written evidence, and requested some redactions to this evidence where it relates to sensitive personal information, which we have agreed.² Full details of the Commissioner's inquiry and her findings are set out in the memorandum. We shall summarise them briefly before setting out our own conclusions.

The Commissioner's findings

Topical Question on 22 October 2019

4. On 22 October 2019, Mr Morris asked a Topical Question³ in the House during Business, Energy, and Industrial Strategy questions. His question was as follows:

I draw the House's attention to my entry in the Register of Members' Financial Interests. In my constituency, we have two EDF nuclear power stations. Part of the EDF group is RTE, which is currently working with the British company Aquind to deliver cross-EU-border energy infrastructure. The EU Commission has just removed UK companies from its list of projects of common interests, which affects their regulation. Will my right hon. Friend urge Ofgem to step up and protect British companies by granting regulation as soon as possible in accordance with British law?⁴

5. On 6 September 2019 Mr Morris had accepted a £10,000 donation from Aquind Ltd, which was registered on his register entry under Category 2 (Donations and other support for activities as a Member of Parliament). Mr Morris has said that this was a contribution to his campaign funds.⁵ This donation constituted "outside reward or consideration" under the paid advocacy rule (paragraph 12 of the Code of Conduct). The paid advocacy rule is explained in the Guide to the Rules as follows:

1 Written evidence accompanying the Commissioner's memorandum is published on the Committee's website.

2 The letter from Mr Morris to the Committee is published as Appendix 2 to this report. Mr Morris's supplementary written evidence is published on the Committee's website.

3 Topical questions are a type of oral question in the chamber, where Members do not have to provide the text of their question in advance, and so the text of the question does not appear on the Order Paper. This is to enable Members to ask questions on recent or 'topical' issues that may have arisen since the deadline for tabling an oral question.

4 Appendix 1 para 9

5 Appendix 1, para 36

The rules place the following restrictions on Members [...] When initiating proceedings or approaches to Ministers, other Members or public officials. Subject to paragraph 10 below, Members must not engage in lobbying by initiating a proceeding or approach which seeks to confer, or would have the effect of conferring, any financial or material benefit on an identifiable person from whom or an identifiable organisation from which they, or a family member, have received, are receiving, or expect to receive outside reward or consideration, or on a registrable client of such a person or organisation.⁶

Paragraph 10, referred to above, provides a time limit for the application of the lobbying rules as follows:

The restrictions under the lobbying rules apply for six months after the reward or consideration was received. A Member can free him or herself immediately of any restrictions due to a past benefit by repaying the full value of any benefit received from the outside person or organisation in the preceding six month period.⁷

6. Under the paid advocacy rule, Mr Morris was therefore prohibited, for the six months following receipt of the donation, from lobbying for a financial or material benefit for Aquind Ltd by initiating proceedings or approaches to Ministers, other Members or public officials. This includes tabling and asking a Parliamentary Question, including a Topical Question.⁸ The Commissioner concluded that the most straightforward interpretation of Mr Morris's Topical Question was that he was seeking for Ofgem to make regulations in future in order to "protect" companies such as Aquind Ltd through a regulatory regime, which constituted seeking to confer a financial or material benefit on them.⁹

7. The Commissioner therefore concluded that Mr Morris' Topical Question on 22 October 2019 breached paragraph 12 of the Code of Conduct.¹⁰

8. The Guide to the Rules states that a declaration of interests is not required when asking a Topical Question.¹¹ The Commissioner therefore found that Mr Morris did not breach the rule on declaration of interests in relation to his Topical Question on 22 October 2019.¹²

Email to the Secretary of State for Business, Energy and Industrial Strategy

9. On 23 October 2019 Mr Morris emailed the Secretary of State for Business, Energy and Industrial Strategy, copying the Official Report text of his Topical Question and the Minister's reply on the previous day. Mr Morris's email was a follow-up to his Question, but also asked the Minister what he would do to "ensure that our cross border energy

6 The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members (HC 1882), Guide to the Rules, Chapter 3, para 8

7 Guide to the Rules, Chapter 3, para 10

8 Guide to the Rules, Chapter 3, para 11(c)

9 Appendix 1, para 53

10 Appendix 1, para 106

11 Guide to the Rules, Chapter 2, para 6(a)

12 Appendix 1, para 60

infrastructure projects go ahead”, if he would “[press] Ofgem to take over regulation in this instance”, and if he would “write to the President of the Council to ask for PCI to be re-instated”.¹³

10. As outlined in paragraph 5 above, the paid advocacy rule also encompasses initiating “approaches to Ministers”. The Commissioner concluded that Mr Morris’s email to the Secretary of State constituted initiating an approach to a Minister for the purposes of the paid advocacy rule; and that even if the email was interpreted as a request to restore UK projects in general to the list of Projects of Common Interest, he was nevertheless initiating an approach that sought to confer, or would have the effect of conferring, a financial or material benefit on Aquind Ltd.¹⁴

11. The Guide to the Rules does permit Members to initiate an approach to a Minister which would otherwise be prohibited by the lobbying rules if it is in pursuit of a constituency interest, subject to the rules on registration and declaration.¹⁵ The Commissioner concluded, however, that there was not adequate evidence that Mr Morris was pursuing a constituency interest when he emailed the Secretary of State.¹⁶

12. The Commissioner concluded that Mr Morris’s email to the Secretary of State on 23 October 2019 therefore breached paragraph 12 of the Code of Conduct.¹⁷

13. The Commissioner also considered whether Mr Morris’s email to the Secretary of State breached the rule on declaration of interests. The rule on declaration of interests, at paragraph 14 of the Code of Conduct, states that relevant interests should be declared in “any communications with Ministers”:

Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members’ Financial Interests. They shall always be open and frank in drawing attention to any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.¹⁸

14. The Guide to the Rules states that declarations of interest must:

provide sufficient information to convey the nature of the interest without the listener or the reader having to have recourse to the Register or other publication.¹⁹

15. Although Mr Morris made a brief declaration of a relevant interest, by copying the Official Report text of his question which referred to his Register entry, the Commissioner concluded that it did not meet the requirements set out in the Guide to the Rules, because

13 Appendix 1, para 34

14 Appendix 1, para 5

15 Guide to the Rules, Chapter 3, para 19. This exception does not, however, permit the initiation of proceedings.

16 Appendix 1, paras 68–73

17 Appendix 1, para 106

18 Code of Conduct for Members, paragraph 14

19 Guide to the Rules, Chapter 2, para 3

others could not have understood the nature and relevance of the interest without reverting to the Register.²⁰ The Commissioner therefore concluded that Mr Morris’s email to the Secretary of State also breached paragraph 14 of the Code of Conduct.²¹

16. In representations to the Commissioner, Mr Morris emphasised that he had not intended to breach any of the rules of conduct. The Commissioner accepted that Mr Morris’s breach of the rules was inadvertent.²²

Conduct during the Commissioner’s investigation

17. The Commissioner also concluded that she found Mr Morris’s conduct during her investigation to be “regrettable and disrespectful of the House’s system of standards”.²³ We discuss this further in paragraphs 25 to 28 below.

Advice from House officials

18. During the course of the Commissioner’s investigation, Mr Morris sought to rely on advice he had received from House officials in relation to asking a Topical Question.²⁴ Although Mr Morris shared with the Commissioner only extracts from his email conversations with two senior officials, it is clear from the responses that Mr Morris had asked them only (a) if there was a requirement in the Code of Conduct to consult the Registrar before asking a Parliamentary Question, and (b) if he was required to declare an interest when asking a Topical Question.²⁵

19. The central consideration in the case of Mr Morris’s Topical Question, however, was not whether he was required to consult the Registrar beforehand, nor whether he ought to have declared his interest when asking it, but rather whether he should have asked his Topical Question at all, since it constituted initiating a proceeding for the purposes of the paid advocacy rule. Mr Morris later acknowledged that his engagement with the Commissioner’s investigation was based in part on a “misunderstanding on certain aspects of Parliamentary procedure”.²⁶

20. Had Mr Morris, before asking his Topical Question, sought (and acted upon) advice from House officials by setting out the circumstances of his proposed question and the nature of his interest, this would have been a considerable defence. Indeed, it is likely that had he done so, no breach would have occurred, since the Registrar has stated that, had Mr Morris consulted her, she would have advised him that his Topical Question would likely constitute a breach of the paid advocacy rule.²⁷ But Mr Morris appears only to have sought advice after the fact on questions which are not relevant to the Commissioner’s conclusions. His appeal to the advice he received is not, therefore, a convincing defence.

20 Appendix 1, paras 61–63

21 Appendix 1, para 107

22 Appendix 1, para 103

23 Appendix 1, para 108

24 Appendix 1, paras 82–84, 99–100

25 Appendix 1, paras 19–20, 82–84, 99–100

26 Written evidence: Email from Mr David Morris MP to the Commissioner, 12 August 2020

27 Appendix 1, para 15

Mr Morris's supplementary written evidence

21. In supplementary written evidence to this Committee, Mr Morris provided a note to him from the House of Commons Library, which analyses the prevalence of references by Members to “my entry” and “Register” in the Official Report. Mr Morris rightly makes clear in his written evidence to this Committee that the prevalence of this practice “is not an excuse for any actions taken”.²⁸

22. We note that Mr Morris's claims in his letter to this Committee did not include important qualifications made in the note from the House of Commons Library. Mr Morris stated that “979 Members of all parties have made similar declarations as myself and possible mistakes”.²⁹ However, the House of Commons Library note refers to 979 total references between the 2010–12 and 2019 sessions, not Members; of which 721 are references to entries in the Register made in the Chamber by 267 different Members. As the Library note makes clear, whilst this number is still likely to be an underestimate of purported declarations of this sort, this analysis did not capture whether Members went on to explain the nature of their interest. The Library note also drew attention to the fact that often what initially appear to be declarations of interest are not in fact required under the rules, or even refer simply to a qualification to speak rather than a genuine financial interest.³⁰

23. As noted in paragraph 8 above, under paragraph 6(a) of Chapter 2 of the Guide to the Rules, declarations of interest are not required when asking Topical and Supplementary Questions. The form of a declaration of interest during a Topical or Supplementary Question is therefore irrelevant. More pertinently, Mr Morris did not break the rules because his declaration of interests during his Topical Question was inadequate: rather, he should not have asked his Topical Question at all because it was in breach of the ban on paid advocacy.³¹

24. Mr Morris's case does highlight, however, that declarations (whether in proceedings in Parliament or in communications with Ministers, Members, public officials or public office holders) that refer only to the existence of a register entry are unlikely to count as adequate declarations under the rules. We draw all Members' attention to the requirement in the Guide to the Rules that declarations of interest must “provide sufficient information to convey the nature of the interest without the listener or the reader having to have recourse to the Register or other publication”.³²

Mr Morris's comments on the Commissioner's investigation

25. During the investigation, Mr Morris repeatedly questioned the Commissioner's remit and her right to consult other officials (in particular the Registrar). He also suggested that the Commissioner had deliberately changed the focus of her investigation in order to justify its continuation or conclusions.³³ As noted in paragraph 16 above, the Commissioner concluded that Mr Morris's conduct during her investigation was disrespectful of the House's standards system.

28 Appendix 2

29 Appendix 2

30 Written evidence: Response from the House of Commons Library to David Morris MP, 7 July 2020

31 See paragraphs 4–7 above.

32 Guide to the Rules, Chapter 2, para 3

33 Appendix 1, paras 91–98

26. Mr Morris subsequently acknowledged that his communication with the Commissioner during her investigation was “legalistic, argumentative and [...] combative”, and has apologised to the Commissioner and the Registrar.³⁴

27. In his email to the Commissioner on 11 July 2020, Mr Morris set out factors which he considered had influenced how he had engaged with the Commissioner’s investigation:

I should point out that it has been a challenging time for me recently. [sensitive personal data redacted]. I am obviously extremely stressed by these factors and on top of that, this investigation has completely perplexed me.

I have not been able to fully share with anyone these details because of the above distractions, [sensitive personal data redacted]. I believe these factors have had a detrimental impact on my focus and approach to working with you in a more conciliatory and constructive manner.³⁵

28. The Commissioner acknowledged that Mr Morris had “recently been through a difficult and testing period, and that stress can affect an individual’s usual behaviour”, that she understood him to be “deeply apologetic and remorseful for the tone adopted in your earlier correspondence”, and that she was “happy to accept [his] mitigation and apology for the tone of [his] previous correspondence, and [...] that no disrespect had been intended to me or my office”.³⁶

Conclusion

29. We agree with the Commissioner’s findings that Mr Morris breached paragraph 12 of the Code of Conduct for Members when asking his Topical Question on 22 October 2019; and breached paragraph 12 and paragraph 14 of the Code of Conduct for Members when sending his email of 23 October 2019 to the Secretary of State for Business, Energy, and Industrial Strategy.

30. Whilst we agree with the Commissioner that these breaches of the rules were inadvertent, any breach of the paid advocacy rule in particular must always be regarded as a serious matter. Observance and enforcement of the paid advocacy rule is vital to maintaining public confidence that Members of Parliament are not using their position and access to Ministers to seek to confer benefits on individuals or organisations in return for any reward or consideration.

31. In accordance with our usual practice, we have considered whether there are any aggravating or mitigating factors in relation to these breaches.

34 Written evidence: Letter from the Commissioner to Mr Morris MP, 31 July 2020, Enclosure - Email of 11 July 2020 from Mr David Morris MP to the Commissioner

35 Written evidence: Letter from the Commissioner to Mr Morris MP, 31 July 2020, Enclosure - Email of 11 July 2020 from Mr David Morris MP to the Commissioner

36 Written evidence: Letter from the Commissioner to Mr Morris MP, 31 July 2020, Enclosure - Notes from the meeting of 27 July between the Commissioner and David Morris MP

32. We regard the following to be an aggravating factor:
- By his own admission, Mr Morris's communication with the Commissioner during the earlier stages of her investigation was unnecessarily combative. (We deal with Mr Morris's conduct during the earlier parts of the investigation at Paragraphs 25 to 27 above.)
33. We regard the following to be mitigating factors:
- This was an inadvertent breach of the Rules. We are confident that Mr Morris did not intend to breach the rules either on paid advocacy or declaration of interests.
 - Mr Morris has acknowledged that he breached the rules and has apologised for doing so, both to the Commissioner and the Committee.
 - Mr Morris has already acted promptly in arranging and attending a virtual briefing from the Registrar on the Code and Rules in order to improve his awareness.
 - Mr Morris has acknowledged that he should not have conducted himself as he did during the investigation and has apologised to the Commissioner and the Registrar. Mr Morris has also drawn our, and the Commissioner's, attention to particularly challenging and stressful personal circumstances which we accept may have affected his judgment and behaviour during the investigation.
34. ***We recommend that Mr Morris should apologise to the House for his breaches of the Code of Conduct by means of a personal statement, the terms of which should be agreed in advance with Mr Speaker and with the Chair of the Committee.***

Appendix 1: Memorandum from the Parliamentary Commissioner for Standards—David Morris MP

[Please note that this document contains redactions, authorised by the Committee, of material relating to confidential personal information.]

Summary

This memorandum reports on the inquiry that I commenced on 28 January 2020. I investigated a complaint from a member of the public that Mr David Morris MP had breached the paid advocacy rule (paragraph 12 of the Code of Conduct for Members of Parliament) when he asked a Topical Question on 22 October 2019. I considered whether, when asking his Topical Question, Mr Morris had also breached the rule on declaring interests (paragraph 14 of the Code of Conduct for Members of Parliament).

I also considered whether Mr Morris had breached the same rules when he wrote a follow-up email to the Secretary of State for Business, Energy, and Industrial Strategy on 23 October 2019.

Having considered the evidence, I concluded that Mr Morris had breached the rule prohibiting paid advocacy on both occasions. This is because Mr Morris's Topical Question, and subsequent email, sought to confer a benefit on an organisation from which he had received a registrable benefit (a campaign donation).

I also determined that Mr Morris's email to the Secretary of State breached the rule on declaring interests. This is because Mr Morris's declaration did not contain sufficient information to convey the nature of his interest without the reader having to refer to the Register of Members' Financial Interests.

I found that the Member acted in breach of paragraphs 12 and 14 of the Code of Conduct for Members. I also concluded that Mr Morris's conduct during my inquiry was disrespectful of the House's system of standards.

Breaches of paragraph 12 of the Code are not among the matters which I may conclude without reference to the Committee on Standards. It is for that reason that I am referring this Memorandum to the Committee on Standards. Mr Morris has, having seen a draft of this memorandum, accepted and apologised for his breaches of the rules and for his conduct during my inquiry.

The Allegation

1. A member of the public wrote to me alleging that Mr David Morris MP had breached the paid advocacy rule (paragraph 12 of the Code of Conduct) when he asked a Topical Question on 22 October 2019. I investigated whether, when asking his Topical Question, Mr Morris had breached the rule on declaring interests (paragraph 14 of the Code of Conduct).

2. I also considered whether Mr Morris had breached the same rules when he emailed the Secretary of State for Business, Energy, and Industrial Strategy on the following day, 23 October 2019.

Relevant rules of the House

3. Paragraph 12 of the Code of Conduct for Members of Parliament approved by the House on 19 July 2018 (“the Code”) says:

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

4. The definition of paid advocacy, and the scope of this prohibition, is provided at Chapter 3 of the Guide to the Rules relating to the Conduct of Members (“the Guide”). Paragraphs 4 and 6 and part of 8 are particularly relevant:

4. The rules on lobbying are intended to avoid the perception that outside individuals or organisations may reward Members, through payment or in other ways, in the expectation that their actions in the House will benefit that outside individual or organisation, even if they do not fall within the strict definition of paid advocacy. They prevent a Member initiating proceedings or approaches to Ministers, other Members or public officials which would confer a financial or material benefit on such a person or organisation. These rules are intended to provide the right balance between enabling Members to bring to bear their experience outside the House on matters of public policy while avoiding any suggestion that the parliamentary or policy agenda can be set by an outside individual or organisation making payments to a Member.

...

6. The lobbying rules apply only to Members who receive an outside reward or consideration and whose activities would provide a financial or material benefit to the person or organisation providing that reward or consideration. They do not otherwise prevent Members from initiating or participating in proceedings or approaches to Ministers, other Members or public officials, even where they themselves may have a financial interest. In such cases the rules on registration and declaration apply. Members must also consider whether they have a conflict of interest. If so, they must resolve it, at once, in accordance with Paragraph 11 of the Code of Conduct.

8. The rules place the following restrictions on Members:

*a). **When initiating proceedings or approaches to Ministers, other Members or public officials.** Subject to paragraph 10 below, Members must not engage in lobbying by initiating a proceeding or approach which seeks to confer, or would have the effect of conferring, any financial or material benefit on an identifiable person from whom or an identifiable organisation from which they, or a family member, have received, are receiving, or expect to receive outside reward or consideration, or on a registrable client of such a person or organisation.*

5. In relation to the disclosure of interests, paragraph 14 of the Code says:

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

6. The detailed rules on ad hoc disclosures (declarations) in the Chamber and elsewhere are set out in Chapter 2 of the Guide. Paragraph 3, and parts of paragraphs 6 and 7 are particularly relevant to this investigation:

3. Declarations must be informative but succinct. A Member who has already registered an interest may refer to his or her Register entry. But such a reference is unlikely to suffice on its own, as the declaration must provide sufficient information to convey the nature of the interest without the listener or the reader having to have recourse to the Register or other publication.

...

6. Members are not required to declare an interest:

a) if to do so would unduly impede the business of the House; for example, during oral Questions, when asking supplementary Questions, or when responding to a Ministerial statement;

Occasions when declaration is required

7. Subject to paragraphs 1 to 6 of this chapter, Members must declare a relevant interest:

...

e) When approaching others:

Members must declare a relevant interest in any communication, formal or informal, with those who are responsible for matters of public policy, public expenditure or the delivery of public services.⁶⁰ That includes communications with Ministers, either alone or as part of a delegation: with other Members; with public officials (including the staff of government departments or agencies and public office holders). If those communications are in writing, then the declaration should be in writing too; otherwise it should be oral.

My Inquiry

7. I obtained relevant information from Mr Morris and House officials during the inquiry.

Evidence

8. On 16 January 2020 the complainant submitted the written complaint outlined above.³⁷

9. The Question asked by Mr Morris on 22 October 2019 was a Topical Question on Business, Energy and Industrial Strategy. This is recorded in Hansard as follows:³⁸

I draw the House's attention to my entry in the Register of Members' Financial Interests. In my constituency, we have two EDF nuclear power stations. Part of the EDF group is RTE, which is currently working with the British company Aquind to deliver cross-EU-border energy infrastructure. The EU Commission has just removed UK companies from its list of projects of common interests, which affects their regulation. Will my right hon. Friend urge Ofgem to step up and protect British companies by granting regulation as soon as possible in accordance with British law?

10. Mr Morris's entry in the 21 October 2019 edition of the Register of Members' Financial Interests includes:³⁹

2. (b) Any other support not included in Category 2(a)

Name of donor: Aquind Ltd

Address of donor: OGN House, Hadrian Way, Wallsend NE28 6HL

Amount of donation: £10,000

Date received: 6 September 2019

Date accepted: 6 September 2019

Donor status: company, registration 06681477

(Registered 26 September 2019)

11. On 28 January 2020 I wrote to Mr Morris inviting him to comment on the allegation and to address specific points about the Topical Question.⁴⁰

12. On 13 February 2020 Mr Morris replied to my initial correspondence.⁴¹ Mr Morris told me that:

- a) the donation from Aquind Ltd was to his campaign team and was not in connection to any work or employment;
- b) his Question had not conferred any benefit on Aquind Ltd;
- c) the Speaker had not ruled his Question out of order; and
- d) his Question had concerned a constituency issue.

38 www.hansard.parliament.uk/Commons/2019-10-22/debates/5AC46A89-7441-47F7-B81B-B439B910CA63/TopicalQuestions

39 Mr Morris registered a further donation from the same donor of £5,000 on 10 January 2020

40 Written Evidence 2

41 Written Evidence 3

13. Mr Morris also told me that he had written to the Secretary of State for Business, Energy, and Industrial Strategy on the same matter on 23 October 2019.⁴² Mr Morris forwarded the text of this email to the Secretary of State, which repeats his Topical Question and also asks:

I would be grateful if you could confirm what action you will be taking to ensure that our cross border energy infrastructure projects go ahead. Will you be pressing Ofgem to take over regulation in this instance and will you write to the President of the Council to ask for PCI to be re-instated.

14. On 24 February 2020 I wrote to the Registrar of Members' Financial Interests (the Registrar) to ask what advice she would have given Mr Morris, had he sought it, about his Topical Question of 22 October 2019 and his subsequent email of 23 October 2019 to the Secretary of State.⁴³

15. The Registrar replied to my letter on 20 March 2020.⁴⁴ The Registrar said that Mr Morris had not asked for her advice before asking his Topical Question and emailing the Secretary of State. She also said:

I would have advised Mr Morris against asking this particular Question as, in my view, it was likely to amount to a breach of the rules on paid advocacy.

16. In relation to Mr Morris's email of 23 October 2019 to the Secretary of State, the Registrar stated:

If I had spoken to Mr Morris before he approached the Secretary of State I would also have reminded him that he was required to register and declare his interests.

17. In respect of the declaration made by Mr Morris during his Topical Question of 22 October 2019 the Registrar stated:

I have already said that I would have advised Mr Morris against asking his Question of 22 October 2019. Even if the Question had been different, I would not have advised him to declare his interests when asking it. A Topical Question is one of the occasions when a declaration of interest is not needed. This is because it is regarded as a form of Supplementary Question. Paragraph 6 of Chapter 2 of the Guide to the Rules says:

Members are not required to declare an interest: (a) if to do so would unduly impede the business of the House; for example, during oral Questions, when asking supplementary Questions, or when responding to a Ministerial statement ...

18. On 23 March 2020 I shared the Registrar's advice with Mr Morris in full.⁴⁵

19. Mr Morris replied on 3 April 2020.⁴⁶ Mr Morris did not comment on the substance of the Registrar's advice. He said the Registrar "does not possess any capacity or ability to

42 Written Evidence 3

43 Written Evidence 4

44 Written Evidence 6

45 Written Evidence 7

46 Written Evidence 8

arbitrate with regard to the procedure listed in the Code of Conduct". Mr Morris's response also quoted advice he said he had received from the Principal Clerk to the Table Office. The advice Mr Morris quoted from the Principal Clerk read:

"I can confirm that, as you anticipated, there is no requirement in the rules of the House for you to consult the Registrar"

"The system clearly does not operate and is not intended to operate on the basis of requiring Members to pre-clear their proper parliamentary activities with the Registrar"

In terms of oral declaration, the Guide to the Rules states at paragraph 6:

So although you mention declaring an interest orally when asking a question, you do not have to under the rules.

Similarly, a topical question does not need a reference to declaration when tabled, as it is akin to a supplementary, and you cannot be certain what you will ask when you table it".

20. I responded to Mr Morris on 20 April 2020⁴⁷. I told Mr Morris that I was satisfied that he had not needed to declare his interest when asking his Topical Question. I asked for further details of the background to and aims of his Topical Question of 22 October 2019 and his subsequent email to the Secretary of State. I also asked who told him, and when, that British companies had been removed from the list of Projects of Common Interest; why and when he decided to ask his Topical Question; whether anyone else approached him to ask it or prepared it; what outcome he hoped for, and what the Secretary of State had said in reply to his email.

21. On 15 May 2020 Mr Morris responded to my letter.⁴⁸ Mr Morris repeated his criticism of my decision to seek advice from the Registrar. He told me that the Registrar does not have the terms of reference set out in my letter.

22. Mr Morris said that he had not directly benefited personally from the donation from Aquind Ltd nor was it a personal donation; and the company had never remunerated him. He told me that *"what occurs in the Chamber is not a matter for your investigation, nor is it in accordance with the powers and authority you have had delegated to you by Parliament. The custodian of the rules, obligations and rights affecting conduct within the Chamber, and Chamber business, belongs to the Speaker alone"*. He added that the Principal Clerk had further advised that his conduct in the Chamber in October 2019 could not be initiation.

23. In relation to his Topical Question, Mr Morris told me that the Minister was already aware on 4 October 2019 that Aquind Ltd were no longer on the relevant EU list of Projects of Common Interest and the matter was being addressed by the Ministry weeks before the question was raised. He said that his concern related to potential job losses in his area as a consequence of *"increasing European Union protectionism as a result of Brexit"*. He added that up to 1,500 people are employed by EDF in his local area, with a further 10,000 employed indirectly in the supply chain.

47 Written Evidence 9

48 Written Evidence 10

24. Mr Morris told me that his Topical Question was not asking Ofgem to make regulations which would benefit Aquind Ltd. He pointed out that Ofgem do not make the regulations; the European Union does. He said that no possible material benefit or advantage could have been conferred on Aquind Ltd. He said he was unaware that lobbying had been alleged. He said that the complainant had “*inferred*” it in her January email. He said that in asking his Topical Question he had been fulfilling his responsibilities as a constituency member. He also drew my attention to “*paragraph 9 of the Code*” (by which I understand paragraph 9 of Chapter 3 of the Guide), which allows an MP to approach a Minister or public official (but not to ask a Question) with evidence of serious wrong or substantial injustice, even if this would otherwise contravene the advocacy rule.

25. Mr Morris said he had been “*open and transparent*” at all times. He concluded by saying:

“My whole experience of the investigation has not been a positive one. It has meandered into areas clearly outside your own jurisdiction and the involvement of the Registrar was unnecessary and unhelpful. I have also been left with the impression that with you having commenced the investigation, you have needed to establish some form of wrongdoing when on the facts, that investigation is unmeritorious.”

26. With Mr Morris’s response of 15 May 2020 he also included the following email from the Deputy Head of the Journal Office (but not his email seeking the advice):

No, Members do not need to consult the Registrar before asking a Topical or other Oral Question on the Floor (either a numbered question or a supplementary). They should only consult the Registrar if they have doubts about their need to declare or register something that currently isn’t in the Register which they plan to ask a question about.

There is no such provision in the Code of Conduct. If there were, the Registrar wouldn’t be able to cope with the possible number of queries raised!

27. Mr Morris wrote to me again on 21 May 2020 requesting all correspondence that I had exchanged with third parties.⁴⁹

28. I replied to Mr Morris on 26 May 2020 addressing both his email of 15 May 2020 and his email of 21 May 2020.⁵⁰ I informed Mr Morris that I had no correspondence to share with him other than that which had already been disclosed.

29. I noted that Mr Morris’s email of 15 May had failed to answer directly many of the questions that I put to him on 20 April. I asked Mr Morris to address in full two of those earlier questions: why he had asked his Topical Question, when he decided to do so, and whether anyone else had approached him to ask it or helped him to prepare it.

30. Mr Morris replied on 1 June 2020⁵¹. He said that no-one had approached him to ask his Topical Question, and that no-one else had drafted it for him. He said that he

49 Written Evidence 11

50 Written Evidence 12

51 Written Evidence 13

was “spontaneously writing down notes” while in the Chamber and that he had asked the Topical Question “with open pen in hand”. He referred me to his earlier responses and said that he had nothing further to add.

Statement of Facts

Mr Morris’s Topical Question

31. Mr Morris asked his Topical Question in the House during Business, Energy, and Industrial Strategy questions on 22 October 2019. It was as follows:

I draw the House’s attention to my entry in the Register of Members’ Financial Interests. In my constituency, we have two EDF nuclear power stations. Part of the EDF group is RTE, which is currently working with the British company Aquind to deliver cross-EU-border energy infrastructure. The EU Commission has just removed UK companies from its list of projects of common interests, which affects their regulation. Will my right hon. Friend urge Ofgem to step up and protect British companies by granting regulation as soon as possible in accordance with British law?

32. The Minister for Business, Energy and Clean Growth replied:

Absolutely. We had an official present in the room at that PCI meeting on 4 October. This issue has been raised with me and is a matter of concern.

33. Topical Questions are not tabled in advance, although the Member must give advance notice if they want to ask one.⁵² There are opportunities for Topical Questions during the last 15 minutes of most Ministerial question sessions. They allow Members to ask a Minister about anything they have responsibility for without having to give them advance notice of the question.

Mr Morris’s email to the Secretary of State

34. On 23 October 2019 Mr Morris emailed the Secretary of State for Business, Energy and Industrial Strategy, to follow up his Topical Question of the previous day. His email was as follows:

Following my Topical Question on the subject in BEIS Oral Questions yesterday, I am writing to confirm what action will be taken.

For your information the Hansard of my question was the following:

David Morris (Morecambe and Lunesdale) (Con)

“I draw the House’s attention to my entry in the Register of Members’ Financial Interests. In my constituency, we have two EDF nuclear power stations. Part of the EDF group is RTE, which is currently working with the British company Aquind to deliver cross-EU-border energy infrastructure. The EU Commission has just removed UK companies from its list of projects

52 <https://www.parliament.uk/site-information/glossary/topical-questions>

of common interests, which affects their regulation. Will my right hon. Friend urge Ofgem to step up and protect British companies by granting regulation as soon as possible in accordance with British law?"

Kwasi Kwarteng

"Absolutely. We had an official present in the room at that PCI meeting on 4 October. This issue has been raised with me and is a matter of concern."

Whilst the Minister signalled that he was aware of the issue and it was a matter of concern he did not confirm that any action would be taken.

I would be grateful if you could confirm what action you will be taking to ensure that our cross border energy infrastructure projects go ahead. Will you be pressing Ofgem to take over regulation in this instance and will you write to the President of the Council to ask for PCI to be re-instated.

Aquind's donation to Mr Morris

35. On 6 September 2019 Mr Morris accepted a £10,000 donation from Aquind Ltd.
36. This donation was registered on 26 September 2019 under Category 2: Donations and other support for activities as a Member of Parliament and was listed under Category 2(b): any other support received by a Member. Mr Morris has said that this was a contribution to his campaign funds.

Background information

Aquind Ltd and its energy project

37. Aquind Ltd's website⁵³ describes its cross border energy project as follows:

Aquind Limited ('AQUIND') is developing proposals to build a new High Voltage Direct Current ('HVDC') marine and underground electric power transmission link between the south of England and Normandy in France–AQUIND Interconnector.

Projects of Common Interest

38. The European Commission website describes Projects of Common Interest as follows:⁵⁴

Projects of common interest (PCIs) are key cross border infrastructure projects that link the energy systems of EU countries.

They are intended to help the EU achieve its energy policy and climate objectives: affordable, secure and sustainable energy for all citizens, and the long-term decarbonisation of the economy in accordance with the Paris Agreement.

53 www.aquindconsultation.co.uk/

54 www.ec.europa.eu/energy/topics/infrastructure/projects-common-interest_en

39. The European Commission website describes the advantages gained from being listed as a Project Common Interest as including:

- accelerated planning and permit granting
- improved regulatory conditions
- lower administrative costs due to streamlined environmental assessment processes
- increased visibility to investors

40. Those listed as a Project of Common Interest also have the right to apply for funding from the Connecting Europe Facility (CEF).

41. The third list of Projects of Common Interest, published on 23 November 2017,⁵⁵ includes:

*Project 1.7.4 Interconnection between Le Havre (FR) and Lovedean (UK)
[currently known as 'AQUIND']*.

42. The fourth list of Projects of Common Interest, published on 31 October 2019, no longer includes project 1.7.4, but does include other projects in the “Priority Corridor Northern Seas Offshore Grid” which involve British companies.⁵⁶

Analysis

Paid advocacy

The rules

43. The Code states at paragraph 12:

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

44. The rule is explained in the Guide at paragraph 8 of Chapter 3, which states:

8. The rules place the following restrictions on Members:

a). When initiating proceedings or approaches to Ministers, other Members or public officials. *Subject to paragraph 10 below, Members must not engage in lobbying by initiating a proceeding or approach which seeks to confer, or would have the effect of conferring, any financial or material benefit on an identifiable person from whom or an identifiable organisation from which they, or a family member, have received, are receiving, or expect to receive outside reward or consideration, or on a registrable client of such a person or organisation.*

45. I therefore considered the following issues:

55 <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32018R0540>

56 <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32020R0389>

- a) Had Mr Morris received outside reward or consideration from Aquind Ltd when he asked a Topical Question on 22 October 2019?
- b) Was Mr Morris initiating proceedings when he asked a Topical Question on 22 October 2019?
- c) Did Mr Morris's Topical Question seek to confer, or would it have had the effect of conferring, financial or material benefit on Aquind Ltd?
- d) Did Mr Morris's email to the Secretary of State on 23 October 2019 seek to confer, or would it have had the effect of conferring, financial or material benefit on Aquind Ltd?

Had Mr Morris received outside reward or consideration from Aquind Ltd when he asked a Topical Question on 22 October 2019?

46. The Guide states the following at Chapter 3:

13. Outside reward or consideration includes:

...

b). all present financial interests or material benefits which must be either registered or declared.

47. The donation made by Aquind Ltd on 6 September 2019 to Mr Morris was registered as a financial interest in the Register of Members' Financial Interests on 23 September 2019. Under the criteria above it qualified as outside reward or consideration. Consequently, Mr Morris was prohibited, for the following six months, from lobbying for a financial or material benefit for Aquind Ltd by initiating proceedings or approaches to Ministers, other Members or public officials. His Topical Question of 22 October 2019 falls into that period.

Was Mr Morris initiating proceedings when he asked a Topical Question on 22 October 2019?

48. The Guide states the following at Chapter 3:

11. Initiating a proceeding of the House includes:

...

c). tabling and asking a Parliamentary Question, including a Topical Question or a Question to the Prime Minister;

49. Mr Morris's Topical Question of 22 October 2019 meets the criteria above. As Mr Morris was initiating a proceeding of the House, he was required to comply with the restrictions of the rules on paid advocacy, as set out at paragraph 8a of Chapter 3 of the Guide.

Did Mr Morris's Topical Question seek to confer, or would it have had the effect of conferring, financial or material benefit on Aquind Ltd?

50. Mr Morris's Topical Question highlights a recent detriment that Aquind Ltd, as a UK registered company, had suffered:

The EU Commission has just removed UK companies from its list of projects of common interests, which affects their regulation.

51. Mr Morris immediately follows this sentence by asking the Minister present in the Chamber:

Will my right hon. Friend urge Ofgem to step up and protect British companies by granting regulation as soon as possible in accordance with British law?

52. Aquind Ltd is the only British company Mr Morris referenced in his Topical Question. As described above, the benefits of being on the list of Projects of Common Interest could include accelerated planning and permit granting; improved regulatory conditions; lower administrative costs and increased visibility to investors. Conversely removal from the list would mean losing access to these benefits. Mr Morris asked the Secretary of State to urge Ofgem to “step up and protect” British companies, presumably either by “improved regulatory conditions” or more generally. It is hard to avoid the view that this was intended to confer some financial or material benefit on Aquind Ltd, whether direct or indirect. Such benefit is prohibited by the restriction outlined at paragraph 8a of Chapter 3 of the Guide above.

53. Mr Morris has said “the claim that I was ... asking the government to lobby Ofgem to make regulations which would benefit Aquind Ltd is ... entirely fanciful”. He has also said that “Ofgem do not make the regulations; the European Union does”. Mr Morris is correct to say that Ofgem does not make regulations, but the straightforward interpretation of his Topical Question is that he was seeking for Ofgem to make such regulations in future in order to “protect” companies such as Aquind Ltd through a regulatory regime. It is irrelevant whether Aquind Ltd did in fact receive the benefit. The rule prohibited his initiating a proceeding that sought to confer to confer, or would have the effect of conferring, a financial or material benefit.

Did Mr Morris's email to the Secretary of State on 23 October 2019 seek to confer, or would it have had the effect of conferring, financial or material benefit on Aquind Ltd?

54. Mr Morris's email of 23 October 2019 was a direct approach to the Secretary of State for Business, Energy, and Industrial Strategy. It included the transcript of his Topical Question of 22 October, and the Secretary of State's reply. However, Mr Morris's email goes further than his Topical Question. Mr Morris writes:

I would be grateful if you could confirm what action you will be taking to ensure that our cross border energy infrastructure projects go ahead. Will you be pressing Ofgem to take over regulation in this instance and will you write to the President of the Council to ask for PCI to be re-instated.

55. As established above, Aquind Ltd had given Mr Morris outside reward or consideration as defined in the Guide. In his email he was initiating an approach to a Minister, contrary to paragraph 8a of Chapter 3 of the Guide. As outlined above, being listed as a Project of Common Interest allows access to benefits including additional funding. Even if the email is interpreted as a request to restore UK projects in general to the list of Projects of Common Interest, he was initiating an approach that sought to confer, or would have the effect of conferring, a financial or material benefit on Aquind Ltd. It therefore breached paragraph 8a of the Guide to the Rules.

Declaration of interests

The rules

56. The Code states at paragraph 14:

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

57. The Guide states the following at Chapter 2:

3. Declarations must be informative but succinct. A Member who has already registered an interest may refer to his or her Register entry. But such a reference is unlikely to suffice on its own, as the declaration must provide sufficient information to convey the nature of the interest without the listener or the reader having to have recourse to the Register or other publication.

4. Members are required, subject to the paragraphs below, to declare any financial interests which satisfy the test of relevance, including:

...

5. The test of relevance is whether those interests might reasonably be thought by others to influence his or her actions or words as a Member.

6. Members are not required to declare an interest:

a) if to do so would unduly impede the business of the House; for example, during oral Questions, when asking supplementary Questions, or when responding to a Ministerial statement

...

Occasions when declaration is required

7. Subject to paragraphs 1 to 6 of this chapter, Members must declare a relevant interest:

...

e) When approaching others: Members must declare a relevant interest in any communication, formal or informal, with those who are responsible for matters of public policy, public expenditure or the delivery of public services. That includes communications with Ministers, either alone or as part of a delegation: with other Members; with public officials (including the staff of government departments or agencies and public office holders). If those communications are in writing, then the declaration should be in writing too; otherwise it should be oral.

Mr Morris's Topical Question of 22 October 2019

58. Before asking his Topical Question, Mr Morris made the following declaration:

I draw the House's attention to my entry in the Register of Members' Financial Interests.

59. The arrangements for Topical Questions are different from those for most oral or written questions. For most oral or written questions, the Member must table the question in advance and must disclose any relevant interests when he or she does so. A Member wishing to ask a Topical Question must give advance notice of this, but there is no requirement to submit the question or declare interests in advance. This is because Members often formulate a Topical Question shortly before it is asked, as Mr Morris says he did on this occasion.

60. As a form of supplementary question, Mr Morris's Topical Question of 22 October 2019 falls under the exemption at paragraph 6a above and no declaration was necessary. For this reason, I am satisfied that, although it was incomplete, because it did not make sufficiently clear to the listener the nature of his interest, the declaration made by Mr Morris during his Topical Question did not breach any rules of the House.

Mr Morris's email to the Secretary of State

61. Mr Morris's email to the Secretary of State of 23 October 2019 was a different matter. In the email Mr Morris includes the text of his Topical Question from the previous day, which includes his oral declaration:

I draw the House's attention to my entry in the Register of Members' Financial Interests.

62. The only interest in Mr Morris's entry in the Register of Member's Financial Interests that is relevant is the donation of 6 September 2019 from Aquind Ltd. Mr Morris's words suggest that he had considered the test of relevance and decided it was likely that the reader would consider his email to be influenced by the donation from Aquind Ltd.

63. Although Mr Morris made a brief declaration of a relevant interest, this does not meet the requirements of the rules in paragraph 3 of chapter 2 of the Guide to the Rules. Others could not have understood the nature and relevance of Mr Morris's interest without reverting to the Register.

Points raised by Mr Morris during my inquiry

He was not a paid advocate

64. In his emails of 13 February 2020 and 15 May 2020 Mr Morris told me that he was not employed by Aquind Ltd and had not been employed by the company at any time. Mr Morris also told me that the donation from Aquind Ltd had been made to his campaign team, was not paid in respect of work undertaken for the company and was not personally received by him.

65. These points are not relevant. On 6 September 2019 Mr Morris accepted a £10,000 donation from Aquind Ltd. This was a donation which required registration (and Mr Morris registered it). As established above, this donation amounted to outside reward or consideration under the House's rules on paid advocacy. As a result, Mr Morris was required, for six months after receipt of the donation, to avoid advocacy which would confer a financial or material benefit on the giver.

Aquind Ltd did not receive any financial or material benefit

66. In his email of 13 February 2020 Mr Morris also told me that Aquind Ltd "*did not receive any financial or material benefit*" from the Topical Question he asked on 22 October 2019. Mr Morris repeated this position in his later emails.

67. This is also not a relevant consideration in determining whether a breach of the rules has occurred. As outlined above, the restriction on paid advocacy outlined in paragraph 8a of Chapter 3 of the Guide prohibits approaches that seek to, or would, confer a financial or material benefit. It is not necessary for that benefit to have materialised.

Mr Morris's Topical Question related to a constituency matter

68. In his email of 13 February 2020 Mr Morris told me:

I clearly stated the reason for my question was that the only project removed from the PCI list was a project which involved a British company, Aquind Ltd, who were partnering with part of the EDF Group on a cross border energy infrastructure project. EDF Group are the largest employer in my constituency, I maintain I was within my remit and responsibilities to ask this question as it could lead to potential job losses in my constituency.

69. In his email of 15 May 2020 he said:

In raising the issue in my question, I was fulfilling my responsibilities as a constituency member on a serious issue regarding my constituents. This was in accordance with paragraph 19 (c) of the Code.

Mr Morris appears to be referring to paragraph 19c of Chapter 3 of the Guide, which says:

Matters outside the lobbying rules

19. The following fall outside the lobbying rules:

...

c) Constituency issues: Members may pursue any constituency interest in any approach to a Minister or public official, subject to the registration and declaration rules. NB: The lobbying rules do apply, however, in respect of Members initiating any proceeding of the House on behalf of a person or organisation in their constituency from whom or from which they, or a family member receive, have received or expect to receive outside reward or consideration.

70. If Mr Morris was pursuing a valid constituency interest, Paragraph 19c of the Guide would have allowed him to do so in “*any approach to a Minister or public official, subject to the registration and declaration rules*”. But it would not have allowed him to ask this particular Topical Question; the exemption applies only to approaches which MPs may make to Ministers or public officials.

71. In any event, although Mr Morris has said that he was pursuing a constituency interest, he has not demonstrated this. The wording of his question was as follows:

Will my right hon. Friend urge Ofgem to step up and protect British companies by granting regulation as soon as possible in accordance with British law?

72. The only British company mentioned in his Topical Question was Aquind Ltd who are based outside Mr Morris’s constituency⁵⁷.

73. In his email of 15 May 2020 Mr Morris told me that his email to the Secretary of State of 23 October 2019 was concerned with “*potential job losses in my area as a consequence of increasing European Union protectionism as a result of Brexit*”. However Mr Morris has not explained how the EU decision on Projects of Common Interest, particularly in relation to the Aquind project, a cross-channel enterprise involving interconnection between Le Havre and Lovedean, could lead to potential job losses in power stations and supply chains in Mr Morris’s constituency of Morecambe and Lunesdale.

Mr Morris was attempting to correct a serious wrong or substantial injustice

74. In his email of 15 May 2020 Mr Morris says:

I therefore cannot understand any ground or reason for the allegation of lobbying. However, even if I am mistaken on this (which I strenuously deny), I would draw your attention to paragraph 9 of the Code.

75. I believe that Mr Morris was attempting to draw my attention to paragraph 9 of Chapter 3 of the Guide, which states:

Exceptionally, a Member may approach the responsible Minister or public official with evidence of a serious wrong or substantial injustice even if the resolution of any such wrong or injustice would have the incidental effect of conferring a financial or material benefit on an identifiable person from whom or an identifiable organisation from which the Member, or a member of his or her family, has received, is receiving or expects to receive, outside reward or consideration (or on a registrable client of that person or organisation).

76. Mr Morris has not outlined what he considers the “*serious wrong or substantial injustice*” to be. In any event this would only provide an exemption for his email to the Secretary of State and not his Topical Question. Mr Morris’s email to the Secretary of State does not reference a “*serious wrong or substantial injustice*” and it would not be right for me to guess Mr Morris’s intent. However, I can note that:

- a) Contrary to his Topical Question of 22 October 2019, not all UK companies were withdrawn from the list of Projects of Common Interest⁵⁸;
- b) The lists of Projects of Common Interest are subject to public consultation and are renewed every two years. Projects that have been removed from a list can apply to be re-added.⁵⁹

77. It may be relevant that the Aquind interconnector project has continued to progress despite its removal from the list of Projects of Common Interest and the loss of the advantages arising from inclusion.⁶⁰

I was wrong to seek the Registrar’s advice

78. In his email of 3 April 2020 Mr Morris challenged why I had sought from advice from the Registrar, commenting:

There is no provision for a Member of Parliament to either instruct or seek such advice from the Registrar of Interests. Moreover, the Registrar does not possess any capacity or ability to arbitrate with regard to the procedure listed in the Code of Conduct.

79. Mr Morris repeated his criticism of my decision to seek advice from the Registrar in his submissions of 15 May 2020 and 1 June 2020. This criticism is ill-founded. My inquiry concerns a potential breach of paragraphs 12 and 14 of the Code; namely, paid advocacy and the declaration of interests. Both paragraphs are accompanied by extensive guidance at Chapters 3 and 2, respectively, of the Guide.

80. Chapter 1 of the Guide states at paragraph 17:

No written guidance can provide for all circumstances, and the references in this Guide should not be regarded as exhaustive. The Parliamentary Commissioner for Standards (“the Commissioner”) and the Registrar of Members’ Financial Interests (“the Registrar”) are available to give advice ...

81. The conduct of an inquiry is a matter for my discretion alone.⁶¹ I am satisfied that seeking the Registrar’s advice on Mr Morris’s actions that are covered by the Guide was a reasonable and proportionate step. The Registrar’s advice ensured that my inquiry had access to an additional objective opinion and is in line with my usual practice. My letter

58 https://ec.europa.eu/energy/sites/ener/files/c_2019_7772_1_annex.pdf

59 https://ec.europa.eu/energy/topics/infrastructure/projects-common-interest/key-cross-border-infrastructure-projects_en

60 <http://aquindconsultation.co.uk/aquind-submits-development-consent-order-application-for-aquind-interconnector/>

61 Paragraph 12 of Chapter 4 of the Guide states that in relation to an inquiry “The Commissioner will then make any subsequent enquiries he or she considers necessary”.

of 20 April to Mr Morris also highlights that the Registrar's comments are not binding on me and that I would decide what weight to attach to her advice and, ultimately, if any rules had been broken.

Assurances from external sources

82. Mr Morris has sought independent advice from the Principal Clerk to the Table Office and the Deputy Head of the Journal Office. Mr Morris has shared extracts of that advice with me, but not the full exchanges. In both instances, Mr Morris sought assurance that he did not need to consult with the Registrar before asking his Topical Question of 22 October 2019.

83. Those assurances are unnecessary. I had not suggested that Mr Morris was obliged to seek the Registrar's advice before asking his Topical Question. The obligation on Mr Morris was to ensure his Topical Question, and subsequent email, were permitted under the Rules of the House. If Mr Morris had had concerns at the time, the Registrar would have been a legitimate source of impartial advice.

84. In his email of 15 May 2020 Mr Morris reports that the Principal Clerk to the Table Office had stated his Topical Question of 22 October 2019 was not the initiation of proceedings. I have not seen this advice. As established above, by virtue of Paragraph 11 of Chapter 3 of the Guide, Mr Morris's Topical Question was initiation.

Mr Morris's Topical Question was outside my jurisdiction

85. Mr Morris has also stated that only the Speaker had the authority to question the correctness of the Topical Question he asked in the House on 22 October 2019; and that I cannot investigate a complaint about this as it concerns matters that occurred in the Chamber. He concluded his email of 1 June 2020 by saying "... *your investigation has needlessly meandered into areas clearly outside your terms of reference.*"

86. Mr Morris is wrong. It is not true that if the Speaker does not challenge a Question, I cannot investigate afterwards whether the Member made an appropriate declaration, or whether paid advocacy occurred. Paragraph 20 of the Code states that:

The Commissioner may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code ...

87. Paragraph 14 of Chapter 1 of the Guide says:

Allegations about failure to register or declare a relevant interest in accordance with the rules of the House, failure to abide by the rules on lobbying for reward or consideration, or any other alleged failure to meet the rules set out in the Code of Conduct are considered by the Parliamentary Commissioner for Standards who reports to the Committee on Standards.

88. I do not of course pronounce on whether a Question was out of order.

89. Along with my predecessors I have investigated other allegations that what a Member has said in the Chamber has breached the advocacy rule or the rule on disclosing interests. Mr Morris should be aware of this; in 2013 my predecessor investigated allegations which

he himself had sent to her on 6 October 2013⁶² that other Members had failed to make adequate declarations of interests in the House. Mr Morris has not explained why his belief about the scope of my investigative powers has changed in the intervening years.

90. I am satisfied that the responsibility for adhering to the Rules of Conduct rests with the Member and the responsibility for investigating allegations concerning a breach of these rules rests with me.

Mr Morris's conduct during my inquiry

Criticism of the basis and fairness of my inquiry

91. Mr Morris's submissions include repeated criticisms of the necessity of my inquiry and its terms of reference. My initial letter of 28 January 2020 and my subsequent letter of 20 April 2020 both stated the basis of my inquiry and the rules which I believed might have been broken; paragraphs 12 and 14 of the Code of Conduct. These are the areas I have investigated; there has been no change.

92. When Mr Morris informed me on 13 February 2020 that he had written to the Secretary of State on the same issue that was already under inquiry, I expanded the scope of my investigation to include his email of 23 October 2019. This was in keeping with my usual practice and I am satisfied that this was proportionate and reasonable.

93. Mr Morris closes his email of 15 May 2020 by stating:

Of course, you as an officer of parliament have obligations and responsibilities. However, I have become increasingly concerned at the way that your investigation has been conducted.

My whole experience of the investigation has not been a positive one. It has meandered into areas clearly outside your own jurisdiction and the involvement of the Registrar was unnecessary and unhelpful. I have also been left with the impression that with you having commenced the investigation, you have needed to establish some form of wrongdoing when on the facts, that investigation is unmeritorious.

94. Mr Morris accuses me of having exceeded my remit, of having unnecessarily involved the Registrar, and of having deliberately changed the focus of my investigation in order to justify its continuation and conclusions, unsupported by the facts. Whilst it is important that Members can question the basis of my inquiries, this should not be at the expense of cooperation and they should submit themselves to legitimate scrutiny. These accusations amount to a serious attack on my integrity and the integrity of my office.

Criticism of the impartiality of the Registrar

95. On 23 March 2020 I shared with Mr Morris the advice provided by the Registrar. I expected to receive in return Mr Morris's comments and reflections on the Registrar's interpretation of the rules and guidance. Instead, Mr Morris opted to reply by stating:

62 www.parliament.uk/documents/pcfs/current-inquiries/Mr%20Ian%20Murray%20Evidencecf.pdf

... I am very concerned that you have thought it necessary and/or appropriate, to not only seek further advice, but to include unnecessary personal comment from the Registrar with regard to its interpretation of this investigation.

There is no provision for a Member of Parliament to either instruct or seek such advice from the Registrar of Interests. Moreover, the Registrar does not possess any capacity or ability to arbitrate with regard to the procedure listed in the Code of Conduct. Please can you therefore clarify why you have deemed it necessary to seek the further intervention of the Registrar in this matter?

This is of course of particular relevance, as the Registrar's obligations are only drawn from the guidelines published by the House of Commons on 8 January 2019. I am also of the view, that the Registrar is far from objective, because of its very close current working relationship with your office.

96. Mr Morris also made repeated misplaced assertions that the Registrar was not a competent source of advice to inform my inquiry. Mr Morris's comments on the objectivity and competence of the Registrar are unsupported by any evidence and are an attack on the integrity of the Registrar and her office.

Accountability

97. In his submission of 15 May 2020 Mr Morris attempts to close the investigation into whether his Topical Question of 22 October 2019 had breached any of the Rules of Conduct by writing:

I therefore see no reason or grounds to prolong any further correspondence and/or discussion with you, concerning events in October in the Chamber.

98. If Mr Morris had said this at the outset of my inquiry it would have been a very serious matter indeed. As it is, he said these words in his email of 15 May, which did not address the detailed questions I had put to him. These words suggest an attempt to avoid scrutiny and accountability, and to frustrate this element of my inquiry. They fall short of the principle of accountability, which is one of the seven Nolan principles of public life, embedded in the Members' Code of Conduct:

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Misrepresentation

99. Mr Morris's correspondence of 1 June 2020 seeks to rely on the earlier advice he had obtained from the Principal Clerk to the Table Office and the Deputy Head of the Journal Office:

I again repeat that I have nothing further to add and I am keen to avoid this matter becoming increasingly disproportionate. You have had already in my submissions confirmation from two authoritative parliamentary sources that the basis of the circumstances surrounding your investigation are of no merit.

Equally, my position is reserved concerning the unnecessary involvement of the Registrar and the fact that your investigation has needlessly meandered into areas clearly outside your terms of reference.

100. However, the advice which Mr Morris has shared with me does not refer to my inquiry or to its merits. From the material he provided to me, Mr Morris simply asked them if he was required to consult the Registrar before tabling or asking a Question. I have no evidence that Mr Morris made a full disclosure of the circumstances when seeking advice from these two senior officials. In any case the information they provided does not deal with the substance of my inquiry. Despite these shortcomings, Mr Morris has chosen to use the advice provided by these House officials as a reason not to engage with my inquiry and questions. That behaviour demonstrates a lack of respect for these officials and for my inquiry.

Summary

101. Mr Morris appears to have limited awareness of the Code of Conduct and the Guide to the Rules which supports it. Rather than engage with the substance of the alleged breaches, and assist my inquiry constructively, he has repeatedly criticised both me and my working methods and has submitted irrelevant information. Whilst it is important that Members can question the basis and need for an inquiry, this should not be at the expense of cooperation and they should not avoid proper scrutiny. Such conduct is regrettable and disrespectful of the House's system of standards.

Comments from Mr Morris

102. I wrote to Mr Morris on 9 July 2020 to give him an opportunity to comment on a draft of this memorandum. Mr Morris wrote to me on 11 July to apologise for the tone of his earlier correspondence, to tell me about some mitigating factors, and to request a meeting⁶³.

103. I then met with Mr Morris, who was accompanied by a colleague, on 27 July 2020. The notes from that meeting are available at item 14 in the written evidence accompanying this memorandum. In summary, Mr Morris:

- repeated his apology for the tone of his previous correspondence, which I accepted;
- reiterated the impact of the mitigating factors shared in his email of 11 July;
- explained in further detail the background and purpose behind his Topical Question; and
- emphasised that he had not intended to breach any of the rules of conduct.

I accepted that Mr Morris's breach of the rules had been inadvertent.

104. Mr Morris then wrote to me on 12 August 2020 with his formal comments on the draft of this memorandum⁶⁴. Mr Morris repeated his apology for having breached the rules of conduct and for the tone of his previous correspondence.

I want to reaffirm my personal apology to you. On no occasion did I deliberately set out in any way to cause any offence to you or the Registrar or any breach of the rules but as I explained during our telephone call, much of the issue involved in your investigation has been caused by my own misunderstanding on certain aspects of Parliamentary procedure.

...

I wish again to wholeheartedly apologise for any misconception and it was never my intention to inadvertently breach any of the rules of the House and cause you to be unnecessarily involved in this matter.

105. Mr Morris also confirmed that he had arranged a refresher training session with the Registrar of Members' Financial Interests on the rules of conduct and accompanying guidance.

Conclusion

106. I have found Mr Morris to be in breach of paragraph 12 of the Code of Conduct for Members on two occasions; firstly, when asking his Topical Question in the House on 22 October 2019 and, secondly, when writing his email of 23 October 2019 to the Secretary of State for Business, Energy, and Industrial Strategy.

107. I have found Mr Morris to be in breach of paragraph 14 of the Code of Conduct for Members when writing his email of 23 October 2019 to the Secretary of State.

108. I consider Mr Morris's conduct during my inquiry to be regrettable and disrespectful of the House's system of standards.

109. Mr Morris has now acknowledged and apologised for his breach of the rules and for his conduct during my inquiry. I have also accepted that his breach of the rules was inadvertent. However, the rectification procedure is not available for breaches of the rule on paid advocacy and it is for this reason that I am submitting this memorandum to the Committee.

110. Consideration of any mitigation is a matter for the Committee, if they agree with my finding that Mr Morris has breached paragraphs 12 and 14 of the Code of Conduct for Members. I therefore draw the Committee's attention to items 14 and 15 of the written evidence, where Mr Morris provides contextual information which the Committee may find relevant.

Kathryn Stone OBE
Parliamentary Commissioner for Standards
2 September 2020

Appendix 2: Letter dated 7 September 2020 from David Morris MP to the Chair of the Committee

[Please note that this document contains redactions, authorised by the Committee, of material relating to confidential personal information.]

Dear Mr Bryant,

I had hoped to appear before your Committee in person, so please accept my apologies for my absence. My wife is due to give birth shortly to our first child, so understandably I am remaining in my constituency and do not wish to jeopardise either my health or that of my wife as this particular time.

[Sensitive personal data redacted].

At the outset I would like to express my personal regret, with regard to my current situation comprised in the report now before the Committee. I accept the Commissioner's findings that I inadvertently breached the rules.

I can assure you and the Committee, that I never intended any breach any of the rules and I was always endeavouring to actively protect my constituents' interests and adhere to the rules of the house. The issue involved raising a question about a national infrastructure programme being affected by Brexit with serious ramifications with regard to the power industry in my constituency. As you may know, my constituency accounts for between 10–15 % of all power in the UK.

Mistakenly, I thought that by orally declaring my interest of a linked donation in the chamber before when asking the question, I was complying with the rules as in 19c. The rules are open to interpretation and can be very ambiguous and complicated. I now realise that by declaring my interest in the chamber, was not sufficient to be fully compliant. I also mistakenly believed that approaching the Secretary of State as a follow up to my question by email was subsequently covered by paragraph 9 of the Code.

These were genuine mistakes which I fully accept personal responsibility for. However, my conduct and or actions were not done with any intention to mislead the House, or to make any personal private gain for me or any third party.

However, the difficulties that I have encountered are not just particular to me but affect my intake of 2010. That intake is acknowledged as having received no formal training regarding parliamentary rules and procedures when first elected. I am keen for the Committee to review these concerns, especially as my inadvertent breach as a lesson to everyone. I fully endorse the Committees proposals for further training for Members.

The need for training is further highlighted by the fact that I have discovered from the House of Commons Library, that 979 Members of all parties have made similar declarations as myself and possible mistakes. While this is not an excuse for any actions taken, it is ample proof for the need for training. I am of course more than happy to share my finding with you and the Committee.

I take my responsibilities and the role that I am privileged to enjoy as a Member, very seriously. I have already met with the Registrar, Ms Heather Wood virtually, who kindly took the time and trouble to go through with me all relevant procedure and practice to ensure that I do not inadvertently make another mistake in the future. The session was extremely informative, and I am grateful to Ms Wood in particular, I am fully supportive of the efforts of the Committee to implement regular training for colleagues. I found the help provided to me by Ms Wood, a very positive experience.

In closing I would like to thank the Commissioner for her guidance, compassion and understanding [Sensitive personal data redacted]. I would also like to unreservedly offer my sincere apologies to yourself and the Committee for regretfully having to deal with my inadvertent breach of the rules and to the House for any wrong and misinterpretations of my actions.

Yours Sincerely,

David Morris MP.

Formal minutes

Tuesday 15 September 2020

Virtual meeting

Members present:

Chris Bryant, in the Chair

| | |
|---------------|--------------------|
| Tammy Banks | Sir Bernard Jenkin |
| Andy Carter | Anne McLaughlin |
| Alberto Costa | Dr Arun Midha |
| Rita Dexter | Paul Thorogood |
| Mark Fletcher | |

Draft report (*David Morris*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 34 read and agreed to.

Two papers were appended to the Report.

Resolved, That the Report be the Eighth 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.

Written evidence was ordered to be reported to the House for printing with the Report.

[The Committee adjourned.]

Published written evidence

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

- 1 Letter from the Complainant to the Commissioner, 16 January 2020
- 2 Letter from the Commissioner to David Morris MP, 28 January 2020
- 3 Email from David Morris MP to the Commissioner, 13 February 2020
- 4 Letter from the Commissioner to the Registrar of Members' Financial Interests, 24 February 2020
- 5 Letter from the Commissioner to David Morris MP, 24 February 2020
- 6 Email from the Registrar of Members' Financial Interests to the Commissioner, 20 March 2020
- 7 Letter to David Morris MP from the Commissioner, 23 March 2020
- 8 Email to the Commissioner from David Morris MP, 3 April 2020
- 9 Letter from the Commissioner to David Morris MP, 20 April 2020
- 10 Email from David Morris MP to the Commissioner, 15 May 2020
- 11 Email from David Morris MP to the Commissioner, 21 May 2020
- 12 Letter from the Commissioner to David Morris MP, 26 May 2020
- 13 Email from David Morris MP to the Commissioner, 1 June 2020
- 14 Letter from the Commissioner to David Morris MP, 31 July 2020
- 15 Email from David Morris MP to the Commissioner, 12 August 2020
- 16 Response from the House of Commons Library to David Morris MP, 7 July 2020

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](#). The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2019–21

| | | |
|----------------|---|--------|
| First Report | Kate Osamor | HC 210 |
| Second Report | Stephen Pound | HC 209 |
| Third Report | Greg Hands | HC 211 |
| Fourth Report | Conor Burns | HC 212 |
| Fifth Report | Mr Marcus Fysh | HC 213 |
| Sixth Report | Confidentiality in the House's standards system | HC 474 |
| Seventh Report | Sanctions in respect of the conduct of Members | HC 241 |