



House of Commons
Committee on Standards

Mr Marcus Fysh

Thirteenth Report of Session 2022–23

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

*Ordered by the House of Commons
to be printed 5 September 2023*

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

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

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

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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

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Committee staff

The current staff of the Committee are Dr Robin James (Clerk), Su Panchanathan (Committee Operations Officer), Stuart Ramsay (Second Clerk), Silas Scott (Senior Media Relations Officer), and Wafia Zia (Second Clerk).

Contacts

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Report

1. This report arises from an investigation by the Parliamentary Commissioner for Standards into whether Mr Marcus Fysh MP had breached the requirements set out in paragraph 13 of the 2023 Code of Conduct for Members relating to the confidentiality of the Commissioner's investigations. (This arose in the context of an earlier investigation by the Commissioner into whether the All-Party Parliamentary Group (APPG) for Education, of which Mr Fysh was Chair, had breached the requirements set out in the APPG Rules. The Commissioner concluded that the Group had breached the rules, but that this was a breach at the less serious end of the spectrum. Mr Fysh acknowledged and apologised for this breach of the rules, and took measures to ensure further breaches did not occur. The Commissioner therefore disposed of the matter, by agreement with Mr Fysh, using his powers of rectification.¹)

2. The Commissioner has supplied us with a memorandum relating to the issue of confidentiality, which we publish as an Appendix to this report.² Mr Fysh was given the opportunity of supplying written evidence to the Committee, but in response he indicated that while he would be happy to answer any questions the Committee had, he did not wish to supply any further evidence over and above that he had provided to the Commissioner. Written evidence relating to the Commissioner's inquiry is published on our webpages.

3. Full details of the Commissioner's inquiry and his opinion are set out in his memorandum. We summarise the Commissioner's opinion briefly before setting out our decision.

Background

4. The Commissioner opened his original investigation into Mr Fysh on 24 April 2023 after a complaint was made that during his tenure as Chair for the APPG for Education, Mr Fysh had breached the APPGs Rules.

5. On 3 May 2023, the BBC news website ran a story on the investigation by the Commissioner, which included a statement by Mr Fysh. A further article with a statement from Mr Fysh appeared on the Somerset Live website on the same day.³

6. In his statement to Somerset Live, Mr Fysh stated that:

The APPG has had no income or expenditure and has simply received secretariat services from Ranelagh with a value of around £20k per annum as a benefit in kind, funded by the industry association for suppliers to education in the UK, the British Educational Suppliers Association.

Such benefits need to be reported along with the provision of various notices of meetings and minutes. I am checking whether this has been done correctly on the advice of the secretariat prior to my becoming chairman in February 2020 and since including during COVID when normal Annual General Meetings could not take place.⁴

1 [Rectification](#) published on 24 July 2023

2 Appendix 1

3 Written evidence 3

4 Written evidence 3

7. The Commissioner extended his original inquiry on 22 May to include whether Mr Fysh had breached paragraph 13 of the Code of Conduct, which concerns confidentiality during the investigation process.

8. Paragraph 13 of the Code states:

Members must not disclose details in relation to: (i) any investigation by the Parliamentary Commissioner for Standards except when required by law to do so, or authorised by the Commissioner.⁵

9. Chapter 7 of the [Procedural Protocol](#) sets out the requirements relating to confidentiality during a Code of Conduct case. In particular, the Protocol states that:

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; and/or
- (d) a Member's own staff.⁶

10. On 27 June 2023, the matter concerning the APPG for Education was rectified.⁷

The Commissioner's opinion

11. The Commissioner has given his opinion that, based on the evidence he received, Mr Fysh gave a statement to media outlets which contained details of the ongoing investigation and therefore breached Rule 13 of the Code of Conduct.

12. In his analysis, the Commissioner stated that:

I considered whether [...] I could consider the allegation to be not upheld. I concluded, however, that this was not an option open to me: I am required to come to a view as to whether a rule of conduct has been breached, and the rule is clear that Members must not disclose details of an ongoing investigation.⁸

13. The Commissioner drew our attention to:

- a) The fact that his letter on 24 April 2023 to Mr Fysh expressly stated "This letter and any subsequent correspondence between us in connection with this inquiry is protected by parliamentary privilege. It should be kept confidential until the

5 [The Code of Conduct, together with the Guide to the Rules relating to the conduct of Members \(HC 1083\)](#)

6 [Procedural Protocol in respect of the Code of Conduct \(HC 1084\)](#), para 117

7 As stated in para 1 above, the Commissioner upheld the allegation that the APPG for Education had Fysh breached the rules on APPGs; the rectification decision relating to the investigation is [published online on the Commissioner's webpages](#).

8 Appendix, para 12

outcome of my inquiry is published.” The topic of confidentiality during an investigation was also referenced in the Procedural Protocol appended to the letter.⁹

- b) The fact that the Code places an obligation on Members to “not disclose details in relation to: (i) any investigation by the Parliamentary Commissioner for Standards except when required by law to do so, or authorised by the Commissioner.”¹⁰

14. The Commissioner has also, however, noted that:

- a) In his opinion, Mr Fysh was attempting to be open and transparent in providing the information.
- b) Mr Fysh has apologised to the Commissioner in writing and has accepted responsibility for his actions.
- c) Mr Fysh has co-operated fully with the Commissioner throughout his investigation.
- d) The statement made by Mr Fysh to the media did not impact the integrity of the Commissioner’s investigation into the APPG rectification.¹¹

Mr Fysh’s position

15. Mr Fysh has written to the Commissioner and apologised for his actions: “I am sorry for not having discussed the press notices of reporting on the investigation with you and what I might say publicly.”¹² Mr Fysh further states that his intentions behind speaking to the media were as follows: “to give information about the APPG that was already in the public domain and my activity as Chairman thinking again of a duty I thought I had to be open and transparent while not referring to your inquiry.”¹³

Our decision

16. It is clear that Mr Fysh breached rule 13 of the Code of Conduct by providing a statement to the media, in which he set out the actions he was taking in response to an ongoing investigation by the Commissioner.

17. The letter provided by the Commissioner and the Procedural Protocol appended to the letter both highlight the need for confidentiality during the investigation process. Mr Fysh therefore should have been aware of the restrictions imposed upon him.

18. Those restrictions exist for a purpose. If a Member argues their case in public before the Commissioner has completed his investigation, a partial view may be put in the public domain, and this may encourage the original complainant or witnesses in the inquiry to engage with or dispute that view, a process likely to generate more heat than light and which may impede the Commissioner’s investigation.

9 Written evidence 1

10 [The Code of Conduct, together with the Guide to the Rules relating to the conduct of Members \(HC 1083\)](#)

11 Appendix, para 12

12 Written evidence 2

13 Written evidence 4

19. There are of course circumstances in which Members at the start of investigation feel disadvantaged because others are putting about what they may regard as a distorted view of the allegations against them. In a report on confidentiality in the standards system which we published in 2021, we acknowledged this as a potential problem. Our suggested remedy was a proposal, subsequently agreed to by the House, that (to quote from the Procedural Protocol):

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.¹⁴

20. **We accept the Commissioner’s view that Mr Fysh was attempting to be “open and transparent” in making information public and that this did not impact negatively on the Commissioner’s investigation. Mr Fysh has apologised for this inadvertent breach to the Commissioner and has been co-operative with his investigation and with our inquiry. The Commissioner was required by the rules to bring this matter to our attention. We urge all Members to take the injunctions on confidentiality in the Procedural Protocol, which was agreed by the House on 18 October 2022, with the utmost seriousness. We draw Members’ attention to the provision in the Procedural Protocol set out in paragraph 19 above, which is open to them if they feel they are being significantly misrepresented. We would expect the Commissioner to respond promptly to any such request under this provision. *Our recommendation on sanction is that Mr Fysh should apologise to the House by means of a letter to the Committee.***

14 Procedural Protocol, para 123; see also Committee on Standards, [Twelfth Report](#) of Session 2019–21, Sanctions and confidentiality in the House’s standards system: revised proposals (HC 1340), published 30 March 2021, para 17. The proposal was approved by the House on 21 April 2021 (Votes and Proceedings, 21 April 2021, item 8).

Appendix: Parliamentary Commissioner for Standards memorandum

Summary

This memorandum reports on an inquiry that I commenced on 22 May 2023. When I initiated this inquiry I was investigating an allegation that Mr Marcus Fysh MP had breached the requirements set out in the Guide to the Rules on APPGs (“APPG Rules”). I extended this inquiry on my own initiative following statements made by Mr Fysh to the media, in order to consider whether Mr Fysh had breached the confidentiality requirement set out in rule 13 of the 2023 Code of Conduct for Members (“the Code”).

(The allegation into breaches of APPG Rules has been rectified - [link to rectification on website to be added])

I have considered whether Mr Fysh breached the confidentiality requirement by disclosing details of the ongoing APPG inquiry to the BBC and Somerset Live.

During my inquiry I contacted Mr Fysh and he provided a written submission along with the statement he provided to the media. I am of the view that this statement included confidential details about my investigation, breaching rule 13 of the Code. As a breach of rule 13 of the Code cannot be concluded by rectification, I am referring this matter to the Committee on Standards.

Daniel Greenberg CB

Parliamentary Commissioner for Standards

21 July 2023

Report

Background

1. On 24 April 2023 I initiated an inquiry into a complaint that in his role as Chair for the APPG for Education (“the Group”), Mr Fysh breached APPG Rules.
2. On 3 May 2023 reports in the media regarding this investigation referred to a statement provided by Mr Fysh, which appeared to provide details of my investigation.

My inquiry

3. On 22 May 2023, I extended my original inquiry to include whether Mr Fysh had breached paragraph 13 of the Code:

“13. Members must not disclose details in relation to: (i) any investigation by the Parliamentary Commissioner for Standards except when required by law to do so, or authorised by the Commissioner;”

4. The standard of proof that I have applied in reaching my conclusion below is the balance of probabilities.

5. During my inquiry, in response to questions from me, I received a written submission from Mr Fysh on 2 June 2023. I did not take any further action on this inquiry until the other matter had been rectified, to avoid having to send two matters relating to the same Member to the Committee, should Mr Fysh not agree to rectification¹⁵.

My findings

Evidence

6. My letter to Mr Fysh on 24 April 2023 initiating the APPG inquiry states that my inquiries are conducted in private and should be kept confidential¹⁶. The letter refers to the Procedural Protocol in respect of the Code¹⁷ which sets out the limited circumstances in which a Member may share details of an investigation¹⁸. This does not include providing media statements.

7. I published the decision to start the inquiry on my website on 27 April 2023. This stated the inquiry related to APPG Rules, specifically the rules on income and expenditure statements and the publication of mandatory information.

8. On 3 May 2023, Mr Fysh provided a briefing to a local BBC reporter and a Somerset Live reporter which included the following details:

- a) that the inquiry related to the APPG on Education;
- b) the income and expenditure arrangements of the Group; and
- c) the action he was taking in respect of my investigation, checking whether the benefits and notices of meetings had been correctly reported¹⁹.

9. Mr Fysh apologised for not having discussed the press notices with me or clarifying what he was allowed to say publicly in respect of publicly available information. Mr Fysh stated that it all occurred very rapidly with notice of only an hour or so, and that he had sought to give information about the Group that was already in the public domain, believing it to be his duty to be open and transparent, while not expressly referring to my inquiry.

Analysis

10. The confidentiality requirement was expressly addressed in the initiation letter sent to Mr Fysh on 24 April 2023 and referenced in the Procedural Protocol appended to the letter.

15 A timeline of my investigation is attached at Appendix 1.

16 The full text is set out in WEP item 1

17 [Procedural Protocol in respect of the Code of Conduct](#)

18 The full guidance in the procedural protocol regarding confidentiality is set out in WEP item 2

19 The full statement provided by Mr Fysh to the media can be seen at WEP item 4

11. Mr Fysh's statement disclosed the name of the APPG my inquiry related to, gave an explanation of the Group's income and expenditure arrangements and set out the action he was taking as part of my inquiry. I therefore consider that Mr Fysh has disclosed details of my investigation.

12. I accept that Mr Fysh was attempting to be open and transparent in providing this information. I considered whether, given this and the fact that Mr Fysh's statement did not impact the integrity of my investigation, I could consider the allegation to be not upheld. I concluded, however, that this was not an option open to me: I am required to come to a view as to whether a rule of conduct has been breached, and the rule is clear that Members must not disclose details of an ongoing investigation. It is a simple matter of fact that Mr Fysh has disclosed these details. Confidentiality is a vital part of the standards system, and it is important that Members familiarise themselves with the confidentiality requirements. Having said that, the Committee may wish to take account of what I say above about Mr Fysh's apparent motivation in reaching their conclusions as to what sanction (if any) they decide to impose.

Conclusions

13. Having considered the information available to me, I am satisfied that Mr Fysh breached rule 13 of the Code. Breaches of rule 13 cannot be rectified, so I refer this matter to the Committee on Standards.

Daniel Greenberg CB

Parliamentary Commissioner for Standards

21 July 2023

Appendix: Timeline of Investigation

Date	Action
24 April 2023	Letter to Mr Fysh initiating investigation into alleged breach of APPG Rules.
3 May 2023	Mr Fysh provides a press release to BBC and Somerset Live.
22 May 2023	Letter to Mr Fysh initiating investigation into alleged breach of confidentiality.
2 June 2023	Email from Mr Fysh to the Commissioner.
27 June 2023	Draft Written Evidence Pack for the investigation into alleged breach of APPG Rules and draft Memorandum to the Committee shared with Mr Fysh.
19 July 2023	Mr Fysh met with the Registrar as part of the rectification process.
20 July 2023	Investigation into alleged breach of APPG Rules is concluded.
21 July 2023	Matter is referred to the Committee on Standards.

Formal minutes

Tuesday 5 September 2023

Members present:

Sir Chris Bryant, in the Chair

Allan Dorans

Andy Carter

Alberto Costa

Sir Francis Habgood

Sir Bernard Jenkin

Dr Michael Maguire

Mehmuda Mian

Dr Rose Marie Parr

Dr David Stirling

Carys Williams

Draft report (*Mr Marcus Fysh*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 20 read and agreed to.

A paper was appended to the Report.

Resolved, That the Report be the Thirteenth 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.

The following written evidence was ordered to be reported to the House for publication:

Written evidence bundle from the Parliamentary Commissioner for Standards

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
2nd	Code of Conduct: Procedural Protocol	HC 378
3rd	New Guide to the Rules: final proposals	HC 544
4th	Andrew Bridgen	HC 855
5th	Precautionary exclusion: response to the House of Commons Commission's consultation	HC 1049
6th	Alex Davies-Jones	HC 1048
7th	Rules for the use of House of Commons stationery	HC 1263
8th	All-Party Parliamentary Groups: final proposals	HC 228
9th	Margaret Ferrier	HC 1276
10th	Matt Hancock	HC 1417
11th	Jess Phillips	HC 1439
12th	Christopher Pincher	HC 1653
1st Special	Government Response to the Committee's First, Second and Third Reports	HC 709
2nd Special	All-Party Parliamentary Groups: final proposals: Government Response to the Committee's Eighth Report	HC 1706

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
11th	ICGS investigations: Commons-Lords agreement	HC 988
12th	Sanctions and confidentiality in the House's standards system: revised proposals	HC 1340