



House of Commons
Committee on Standards

Sanctions and confidentiality in the House's standards system: revised proposals

Twelfth 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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Contents

Report	3
Introduction	3
Confidentiality	4
Sanctions	6
Requirement to attend training	7
Withdrawal of services or facilities	7
Other matters	9
Conclusion on sanctions	9
Annex: Additions/changes to recommendations on sanctions since publication of the Committee's report	10
Appendix: Correspondence	13
Formal minutes	30
List of Reports from the Committee during the current Parliament	31

Report

Introduction

1. The purpose of this report is to update the House about the Committee's proposals for changes to the current system of sanctions for breaches of the Code of Conduct for Members of Parliament, and its proposals for changes to the confidentiality regime in standards cases.
2. In summer 2020 the Committee published reports on *Confidentiality in the House's standards system* and *Sanctions in respect of the conduct of Members*.¹ The aim of the first report was to support proposals from the Parliamentary Commissioner for Standards for some 'fine-tuning' of the confidentiality regime in relation to both Independent Complaints and Grievance Scheme (ICGS) and non-ICGS standards cases, in the light of her experience of dealing with both. The aim of the second report was to review the range of sanctions available in both ICGS and non-ICGS cases and to recommend an enhanced suite of sanctions, as envisaged in the ICGS Delivery Report, and supported in Dame Laura Cox's and Gemma White's reports on bullying and harassment in Parliament.²
3. Following publication of our reports, the Government indicated to us that they had reservations about some of the Committee's recommendations. We therefore invited the Government to submit formal responses to both reports. We received those responses in November and since then we have held a meeting with the Leader of the House and had several exchanges of correspondence with him, as well as continuing to discuss these matters with the Commissioner. In the light of these, the Committee has offered some modifications to its proposals and we have reached agreement with the Government on these.
4. A new factor in the House's standards system since the publication of our reports has been the setting up of the Independent Expert Panel to consider individual ICGS cases referred to it by the Commissioner, and ICGS appeals—functions which have been transferred from the Committee on Standards. The House approved the creation of the Panel on 23 June 2021, and nominated the Panel members on 25 November. Both the Committee Chair and subsequently the full Committee have held meetings with the Chair of the Panel, Sir Stephen Irwin, to discuss matters of mutual interest. Sir Stephen has indicated that he is content for the Committee's proposals on sanctions and confidentiality, in their revised form, to be put to the House for decision.
5. We have also consulted the two largest Opposition parties represented in the House about the revised proposals.
6. In the remainder of this report we set out the proposed revisions to our original proposals and the rationale behind them. The Government responses to the reports and our subsequent correspondence with the Leader of the House are set out in an appendix.

1. Respectively the Committee's [Sixth Report](#) of Session 2019–21 (HC 474), published 19 June 2020, and [Seventh Report](#) of Session 2019–21 (HC 241), published 21 July 2020; subsequently cited in footnotes as "HC 474" and "HC 241" respectively.

2. Independent Complaints and Grievance Scheme [Delivery Report](#) (July 2018), paras 53–54, pp 68–69, 91–92; Dame Laura Cox DBE, *The Bullying and Harassment of House of Commons Staff: [Independent Inquiry Report](#)*, published 25 October 2018, para 404; Gemma White QC, *Bullying and Harassment of MPs' Parliamentary Staff - [Independent Inquiry Report](#)* (Session 2017–19, HC 2206), published 11 July 2019, paras 129–33

7. ***We commend the proposals in their revised form to the House, and hope that the Government will provide an early opportunity for the House to debate and decide upon the proposals.***

Confidentiality

8. In our June 2020 report we noted that the extent to which the investigation of alleged breaches of the House of Commons Code of Conduct is kept confidential has varied over the years. The most recent changes, affecting both ICGS and non-ICGS cases, were agreed by the House in July 2018, when the House adopted the Parliamentary Behaviour Code and created the ICGS.³

9. The Parliamentary Commissioner for Standards has argued that in certain specific requests the new confidentiality restrictions have impeded her work and undermined the effective operation of the standards system. She has put forward four recommendations for improving matters. The Commissioner's arguments are set out in an annex to our June 2020 report. In the report we supported the Commissioner's recommendations and suggested a draft motion to be put to the House.⁴

10. The recommendations on confidentiality were as follows:

Deterrents to unauthorised disclosure

a) Following an unauthorised disclosure of information, the Commissioner should be empowered—if she thinks it appropriate—to investigate the disclosure; or to ask the relevant manager to investigate and if necessary to ask him/her to consider disciplinary action. She should also have the discretion, if there were a particularly serious breach of confidentiality, to interview witnesses and if appropriate to suspend or discontinue her own investigation, if the disclosure was sufficiently damaging and was instigated by the complainant.

The power to set the record straight

b) While as a general rule, the Commissioner will not disclose to the public or the media the details of an ICGS case either while it is under investigation or afterwards, she should have the discretion in exceptional cases publicly to correct inaccurate or incomplete information. She might wish for example to confirm whether an investigation is taking or has taken place, and the broad nature of the case. She would only give out minimal information, and would only do so after consulting the parties involved and considering their mental and emotional wellbeing.

Authority to publish a quarterly report about completed ICGS investigations

c) The Commissioner should be given authority, as part of the wider ICGS reporting arrangements, to issue a quarterly report giving numbers of ICGS investigations, themes and outcomes, all in anonymised form, without allowing the complainant to veto publication.

3 HC 474, para 1

4 HC 474, paras 4–5

Publishing information about ongoing non-ICGS investigations

d) The Commissioner should be given authority to publish a list of ongoing non-ICGS investigations and to confirm or deny whether a non-ICGS matter is being looked into, as she did before 19 July 2018.⁵

11. In its response to our report, the Government welcomed our recommendations, and commented that:

In particular, we support your recommendation that the Commissioner should again have the power to publish details of non-ICGS cases. While, as a general rule, it is preferable to have consistency between the ICGS and non-ICGS systems where possible, we consider that with confidentiality, there are good reasons why the approaches should differ.

12. The Government added:

With ICGS cases, where a third party is involved, it is crucial that confidentiality is at the heart of the system. In non-ICGS cases, where no third party has brought a complaint, the requirement for confidentiality is different, and the current arrangements can hamper transparency unnecessarily. Returning to a system whereby the Commissioner can routinely publish the name of the Members under investigation and the Code of Conduct infringement for which they are being investigated will correct this by providing an authoritative source of factual information. We will seek to bring forward a motion to implement these proposals akin to that set out in your report.⁶

13. The Government in its response made a further suggestion:

This change will mean that Members under investigation in a non-ICGS case will find their names listed on the Parliament website. The Government is of the view that those in this position should be able to respond should they need to if, for example, this prompts speculation in the media as to what the breach of the code might relate to.

14. We discussed this matter further with the Leader of the House and with the Commissioner. We clarified that the Committee's recommendation (d) on confidentiality was that in non-ICGS cases the House should simply revert to the rules as they stood prior to July 2018, with Members as well as the Commissioner having the same rights they did then. We also confirmed that recommendation (a), relating to deterrents for unauthorised disclosure, is intended to relate only to ICGS cases and would not therefore restrict the pre-July 2018 rights of Members in non-ICGS cases.

15. We have considered the Government's proposal relating to a right to correct media misinformation. We clarified with the Commissioner what guidance on confidentiality Members are given at the start of an investigation: this is set out in the appendix to this report.⁷

5 HC 474, para 4

6 Appendix, item A (Government response to HC 474, attached to letter from the Leader to the Chair dated 6 November 2020)

7 Appendix, item D (letter from the Chair to the Leader dated 4 February 2021)

16. We note that, as the Commissioner's investigation is privileged by virtue of being a 'proceeding in Parliament', the unauthorised disclosure of evidence in an investigation will continue to be a contempt. It is important that both Members and complainants respect the confidentiality of the process, not least so as to avoid a capricious 'trial by media'. In addition, we note that any attempt by a Member to lobby the Committee is itself a breach of the Code.⁸

17. However, in circumstances where significantly incorrect information about the allegation has been made public, we propose that the injured party (Member or complainant) should be able to apply to the Commissioner for a public rebuttal to be issued, either by the Commissioner herself or by the injured party with her express prior approval of the text. We would expect any such rebuttal to be factual and not argumentative in content, and as brief as possible. The response to any such application will be at the discretion of the Commissioner who will thereby keep control of the process.

18. Where the Commissioner has confirmed that there is no investigation, the Member would obviously be free to comment as he or she sees fit.

19. In addition, we note that in very many cases a reversion to the pre-July 2018 arrangements will be to the advantage of Members because the Commissioner will again be in a position to confirm that she is not investigating a Member.

20. The Leader of the House has given a supportive response to the recommendation in paragraph 17 above:

The rebuttal approach proposed seems a sensible one that would ensure that erroneous information in the media could be addressed in a prudent manner. I am, therefore, content to support the confidentiality report in its entirety. I would add, however, that confidentiality around disciplinary matters continues to be a most contentious issue, with regards to both complainants and respondents. In particular, it remains imperative that the identity of those involved in ICGS cases is appropriately protected and I know that confidentiality is a matter the House will want to treat with the utmost sensitivity.⁹

21. We endorse the Leader of the House's comments: we understand the importance of offering appropriate protection to potentially vulnerable parties in ICGS cases and believe that nothing in our proposals will undermine this key principle of the ICGS.

22. We recommend that the House approve the four recommendations we set out in paragraph 10 above and the additional recommendation in paragraph 17.

Sanctions

23. Our report on *Sanctions in respect of the conduct of Members*, published in July 2020, was a major review of the subject, the first for many years. It described the existing system of sanctions, proposed a set of aggravating and mitigating factors that should be taken into account in proposing sanctions, and recommended a new suite of sanctions for use

⁸ Code of Conduct for Members of Parliament, extract from para 20: "No Member shall lobby a member of the Committee in a manner calculated or intended to influence its consideration of an alleged breach of this Code."

⁹ Appendix, item E (Letter from the Leader to the Chair dated 23 February 2021)

in both ICGS cases (by the Commissioner, the Independent Expert Panel or the House, as appropriate) and in non-ICGS cases (by the Commissioner, the Committee or the House). The new set of sanctions was set out in two tables, relating respectively to ICGS and non-ICGS cases, for easy reference.

24. The Government in its response to the report raised a number of issues where it had reservations about our proposals or wished to clarify them. In the interests of brevity, we will not duplicate here our original conclusions and recommendations, nor set out in detail our discussions with the Government. All this material is available in the original report or in the appendix to this report. Instead we publish as an annex to this report updated versions of the two tables of sanctions in the original report, with proposed changes highlighted, and add comments below setting out the changes and explaining why we have made them.

Requirement to attend training

25. In our correspondence with the Leader of the House we have sought to clarify the respective roles of the Commissioner and the Panel or Committee in respect of the imposition of training as a sanction. We agreed with the Leader that “training is generally more effective when undertaken with consent and when it is not just viewed as punishment”. Our revised proposal is that the Commissioner should be able to recommend training to a Member but not to require that they attend. However, in the event of a refusal by the Member to attend, the Commissioner will be able to propose to the Panel or the Committee that it treat this as a factor aggravating the original offence, and that the Panel or Committee should be empowered to require the Member to attend training, either as a stand-alone sanction or as part of a package of sanctions recommended to the House.¹⁰

Withdrawal of services or facilities

26. We have likewise sought to clarify and revise our proposals relating to withdrawal of services or facilities. We are aware of the sensitivities involved in imposing sanctions which impact on a Member's ability to perform their parliamentary duties. Of course, serious sanctions such as suspension will unavoidably impede a Member to some degree in carrying out their role. Nonetheless, in our original report we emphasised that “we have [...] been conscious of the need to ensure, as far as possible, that sanctions penalise a Member who has broken the rules, but do not impact negatively upon either the Member's staff or constituents”.¹¹ We have discussed this issue further with the Leader of the House, the Chair of the Panel and the Commissioner.

27. The Chair of the Panel has proposed that four categories of sanction involving withdrawal of services should be distinguished:

- (1) Sanctions that do not in any way interfere with the functions of an MP
- (2) Sanctions that interfere with functions of an MP but not core functions

¹⁰ Appendix, item C (letter from the Leader to the Chair dated 17 January 2021)

¹¹ HC 241, para 93

- (3) Sanctions which interfere with core functions but reflect the nature of the offence, e.g. non-participation in select committee visits if there has been previous abusive behaviour on visits
- (4) Suspension or expulsion, which of their nature interfere with core functions.

28. We accept this set of categories and propose that sanctions (3) and (4) in this list should only be imposed by decision of the House. It should be noted that under this proposal, sanctions interfering with the core functions of a Member will only be imposed where they arise from the nature of the offence, or (as has always been the case) in cases serious enough to merit suspension or expulsion.

29. We would define the core functions of a Member as (a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents. A sanction such as physical exclusion from the Table Office or the Members' Library would not be regarded as interfering with core functions because the Member would still be able to table questions, access Library services, etc., by electronic means. If the Panel or the Committee is in any doubt as to whether a sanction would interfere with core functions, we would expect it to seek the views of the House authorities where appropriate, and to err in its decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter.

30. We emphasise, as we have previously, that these proposals are without prejudice to the existing rights of the House Service to impose restrictions of service upon Members where necessary as management actions and not as sanctions; and that any sanctions should penalise a Member who has broken the rules, but as far as possible should not impact negatively upon either the Member's staff or constituents.

31. The Leader of the House has indicated his support for this revised proposal, in the following terms:

I would like to thank the Committee for giving consideration to the matter I raised around the definition of core and non-core services. It is imperative that services that are core to a Member's parliamentary duties should only be able to be withdrawn by a decision of the House and I am glad the Committee is in agreement.

I support the Committee's interpretation of core functions as a Member's participation in formal proceedings and ability to communicate with and make representations on behalf of their constituents. I agree with the proposal that the Committee or Panel should only be able to withdraw services that would not amount to an interference with the functions of an MP at all, or would interfere with the functions, but not their core functions as defined.

Furthermore, I agree with the Committee's view that where there is any doubt as to whether access to a particular service affects a Member's core function, the Committee and Panel should err on the side of caution.

I am, therefore, content to support the Committee's proposal for the sanction of the withdrawal of services and therefore the sanctions report in its entirety.¹²

Other matters

32. Our correspondence with the Leader of the House also contains some clarification of our proposals in respect of the proposed sanction relating to giving words of advice; and notes two issues which the Committee will consider further as part of our current review of the Code of Conduct: the disparity between ICGS and non-ICGS cases caused by our proposal on apologies, and the possibility of establishing a formal system of appeals in non-ICGS cases.¹³

33. Finally, we note that the Leader of the House has given an undertaking to the Chair of the Independent Expert Panel that motions to impose a sanction recommended by the Panel should be put before the House expediently, and we welcome this.¹⁴

Conclusion on sanctions

34. *We recommend that the House approve the recommendations in our July 2020 report on sanctions, as modified in the way set out in our correspondence with the Leader of the House and summarised in this report and in the updated tables in the Annex to this report.*

35. *We note that the recommendations set out in the updated tables should be read in the context of the more detailed commentary on the proposed new suite of sanctions in the original report. An example of this would be where we note that our intention is that "we do not intend the tables to be taken as a straitjacket but as a simplified guide to the range of sanctions against Member which the various decision-making bodies will be able to deploy, flexibly and responsively to the circumstances of individual cases".¹⁵*

12 Appendix, item E (letter from the Leader to the Chair dated 23 February 2021)

13 On words of advice, see Appendix, item B (letter from the Chair to the Leader dated 9 December 2020) and item C (letter from the Leader to the Chair dated 17 January 2021); on apologies, see Appendix, item E (letter from the Leader to the Chair dated 23 February 2021); on appeals, see Appendix, item D (letter from the Chair to the Leader dated 4 February 2021) and item E (letter from the Leader to the Chair dated 23 February 2021).

14 Appendix, item E (letter from the Leader to the Chair dated 23 February 2021)

15 HC 241, para 90

Annex: Additions/changes to recommendations on sanctions since publication of the Committee's report

Revised version of Table 2 in July 2020 Report (HC 241), with changes highlighted: Sanctions in ICGS cases

Proposed sanction	Decision-making body	Is this an existing power?
Informal resolution	Commissioner	Yes
Words of advice (informal)	Commissioner	No—approval by House needed
Words of advice (formal)	Commissioner	No—approval by House needed
Requirement to attend training or enter into behaviour agreement	Panel Commissioner	No—approval by House needed
Written apology to complainant mandated by Commissioner	Commissioner	No—approval by House needed
Written apology to the House	Commissioner	No—approval by House needed
Apology to the House in a point of order	Commissioner	No—approval by House needed
Apology to the House in a personal statement	Commissioner	No—approval by House needed
Withdrawal of services and facilities / other personal restrictions including travel (not affecting core functions of a Member ¹⁶ involving participation in proceedings)	Panel Commissioner	No—approval by House needed
Withdrawal of services and facilities / other personal restrictions including travel (affecting core functions of a Member ¹⁷ —where sanction reflects nature of offence involving participation in proceedings)	The House, on the recommendation of the Panel	Yes
Dismissal from select committee	The House, on the recommendation of the Panel	No—approval by House needed
Salary or allowances withheld without suspension	The House, on the recommendation of the Panel	Yes

16 The core functions of a Member are defined as (a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents. If the Panel or the Committee is in any doubt as to whether a sanction would interfere with core functions, they would be expected to seek the views of the House authorities where appropriate, and to err in their decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter. (Source: letter dated 4 February 2021 from Chair of the Committee on Standards to the Leader of the House)

17 See footnote 1 above.

Proposed sanction	Decision-making body	Is this an existing power?
Suspension	The House, on the recommendation of the Panel	Yes
Expulsion	The House, on the recommendation of the Panel	Yes

Revised version of Table 3 in July 2020 Report (HC 241), with changes highlighted: Sanctions in non-ICGS cases

Proposed sanction	Decision-making body	Is this an existing power?
Informal resolution	Commissioner	Yes
Words of advice (informal)	Commissioner	No—approval by House needed
Words of advice (formal)	Commissioner	No—approval by House needed
Correction of register	Commissioner	Yes
Requirement to attend training	Standards Committee Commissioner	No—approval by House needed
Written apology mandated by Standards Committee	Standards Committee	Yes
Apology to the House in a point of order	Standards Committee	Yes
Apology to the House in a personal statement	Standards Committee	Yes
Repayment of money	Commissioner if the Member agrees—otherwise Standards Committee	Yes
Withdrawal of services and facilities / other personal restrictions including travel (not affecting core functions of a Member¹⁸⁾)	Standards Committee	No—approval by House needed
Withdrawal of services and facilities / other personal restrictions including travel (affecting core functions of a Member¹⁹⁾—where sanction reflects nature of offence)	The House, on the recommendation of the Standards Committee	Yes
Dismissal from select committee	The House, on the recommendation of Standards Committee	No—approval by House needed
Salary or allowances withheld without suspension	The House, on the recommendation of Standards Committee	Yes

18 See footnote 1 above.

19 See footnote 1 above.

Proposed sanction	Decision-making body	Is this an existing power?
Suspension	The House, on the recommendation of Standards Committee	Yes
Expulsion	The House, on the recommendation of Standards Committee	Yes

Appendix: Correspondence

A. Leader of the House to Chair dated 6 November 2020, with the Government's responses to the Committee's two reports

Dear Chris,

Thank you for your letter of 7 October regarding the Government responses to the Committee on Standards' reports on confidentiality and sanctions and for our previous conversation about the Committee's recommendations.

The reports raise a number of important issues and I am grateful to your Committee's work in producing them. I have been carefully considering advice on the two reports and have made further inquiries into the practical implications of the recommendations.

Please find attached responses to each of the Committee's reports. I would be happy to discuss these responses in the coming days if that would be helpful.

With every good wish,

Yours ever,

Jacob

Rt Hon Jacob Rees-Mogg MP

Lord President of the Council

Leader of the House of Commons

Government response to the Standards Committee 6th report on Confidentiality in the House's Standards System

The Government is grateful to the Committee and the Parliamentary Commissioner for Standards for the thoughtful report on confidentiality.

We welcome the recommendations regarding confidentiality arrangements in relation to alleged breaches of the House of Commons Code of Conduct. In particular, we support your recommendation that the Commissioner should again have the power to publish details of non-ICGS cases. While, as a general rule, it is preferable to have consistency between the ICGS and non-ICGS systems where possible, we consider that with confidentiality, there are good reasons why the two approaches should differ.

With ICGS cases, where a third party is involved, it is crucial that confidentiality is at the heart of the system. In non-ICGS cases, where no third party has brought a complaint, the requirement for confidentiality is different, and the current arrangements can hamper transparency unnecessarily. Returning to a system whereby the Commissioner can routinely publish the name of the Member under investigation and the Code of Conduct infringement for which they are being investigated will correct this by providing an authoritative source of factual information. We will seek to bring forward a motion to implement these proposals akin to that set out in your report (paragraph 5).

This change will mean that Members under investigation in a non-ICGS case will find their names listed on the Parliament website. The Government is of the view that those in this position should be able to respond should they need to if, for example, this prompts speculation in the media as to what the breach of the code might relate to. We would welcome further views from you on this point.

Government response to the Standards Committee 7th report on Sanctions in respect of the Conduct of Members

The Government is grateful to the Committee for its work and welcomes much of the report on sanctions in respect of the conduct of Members. However, we would like to raise a few specific concerns, including in relation to the application of some of the proposed sanctions.

Consistency in imposing sanctions

The Committee rightly recognises in its conclusion in paragraph 78 that “consistency of approach is vital if we are to promote best practice and Members are to understand what is expected of them” but that “no two cases are identical and it is important that the Commissioner and Committee are able to consider aggravating and mitigating factors in determining the appropriate sanction”. We support the Committee’s general approach and note the list of aggravating and mitigating factors that the Committee intends to adopt for non-ICGS cases. While these factors can provide helpful context to specific cases they may on occasion be based on subjective judgments and will therefore be secondary to the facts established in the investigations. These factors, and any additions to the list, must be clearly communicated to Members.

A new suite of sanctions

The introduction of a new suite of sanctions is a sensible move that will ensure appropriate and proportionate responses are available for infringements of the Code of Conduct.

- *Delegating the power to impose sanctions*

We welcome the Committee’s conclusion (paragraph 86) “that barring a Member from carrying out any of their core parliamentary functions should be a sanction only to be imposed by an explicit decision of the House in the individual case. Under [the Committee’s] proposals, suspension, like expulsion, will continue to be a sanction which only the House itself can impose.” We note the “Clerk of the House’s view that lesser sanctions, which do not bar Members from carrying out their core parliamentary duties, may be delegated by the House to the Committee, the Independent Expert Panel, or the Commissioner”. However, we would urge the Committee to think carefully about what classifies as core vs non-core parliamentary duties. The Government would welcome further dialogue with the Committee on this point in preparation of the motion that will necessarily be brought forward for the House’s decision.

The Committee notes (paragraph 87) that “substantial powers to investigate and to sanction have been delegated to the Commissioner”. In conduct cases in an employment or corporate context, it is common practice for the role of investigator and sanctioner to be kept separate. We believe that the principle of separating these powers in order to ensure independence in the process, is an important one that should be borne in mind. However,

we recognise that, currently, the Commissioner is best placed to implement the less severe sanctions set out in the report, and we are reassured by the Committee's proposal that the House approve the principle of there being an appeals process for non-ICGS cases in line with that of the ICGS (paragraph 136, and see below).

- *Words of advice*

The Committee notes that "The Commissioner already has wide-ranging powers within the terms of Standing Order No. 150 to give [words of] advice to Members on standards matters". We welcome the Commissioner playing an active role in the hope that early intervention is effective in persuading a Member to modify their attitude, behaviour or conduct. However, it is not clear why these existing powers require the explicit authorisation of the House, as recommended by the Committee (paragraph 97). The Government is happy to engage further with the Committee on this point as we prepare the necessary motions.

- *Requirement to attend training*

It would be helpful to receive clarification on the Committee's recommendation (paragraph 102) that: "the House authorise the Commissioner, and the Panel, to require Members to attend specified training or coaching sessions". This suggests that the proposed power would lie with the Commissioner and would not require the Member's approval to be implemented. However, we understand that the Commissioner's view is that training would generally only be effective if the Member in question agreed to participate and that this sanction would therefore likely only be implemented by the Commissioner with consent.

If the training sanction were to require the consent of the Member in order to be implemented by the Commissioner, this would be appropriate and in line with the equivalent Lords Commissioner power. We would support the application of the sanction in these circumstances, and note that if a Member were to refuse consent, it might be appropriate for an alternative (and potentially more severe) sanction to be imposed by the Committee.

- *Apologies*

We note the various kinds of apology which the Committee itself can presently require a Member to make in non-ICGS cases and agree with your recommendation (paragraph 104) that "it would be appropriate for equivalent forms of apology to be available to the Commissioner (and the Panel) in ICGS cases". We would also like to seek some assurance on the disparity between ICGS and non-ICGS sanctioning regimes which you recognise this would create. You state that you will keep this matter under consideration and will return to it in your forthcoming review of the Code of Conduct and the wider sanctions system; it would be helpful to understand the timing of that work and we would be grateful if you would keep the Government informed of progress.

- *Withdrawal of services (including travel)*

The Committee highlights (paragraph 107) two different reasons for withdrawing services or access to facilities from Members: (1) As a response to behaviour that is detrimental to staff well-being; and (2) As a sanction in an ICGS or non-ICGS case, by the Commissioner,

Panel or Committee, where the primary purpose of the sanction is punishment rather than (or as well as) safeguarding. The former is rightly a matter for the House Authorities and we note your conclusion (paragraph 117) about “the power which undoubtedly exists for the House Service to impose restrictions of service upon Members where necessary as management actions and not as sanctions”.

We recognise the need to include in the suite of sanctions the option to withdraw services or limit access to facilities (paragraphs 112–116) but we have concerns about the way in which this might be applied in the future and about where decision-making on such sanctions ought to lie.

In cases where safeguarding of staff is a factor there may be problems with applying the proposed sanction only in the context of where the offending behaviour relates to the service. We question how such a sanction might protect staff well-being more broadly in other service areas. If a Member has behaved unacceptably in one context, removing them from that scenario does not address the wider issue of their behaviour, which could persist elsewhere. It seems to the Government that the first purpose of this sanction to protect staff is for the House Service and staff elsewhere may be better served by an alternative sanction being implemented.

In other cases, we do recognise that the withdrawal of services could be used as an effective form of punishment without being detrimental to the Member's parliamentary duties. This might include, for example, a requirement that they only use the Table Office's online services rather than in-person. However, there is a risk that such sanctions would hamper the Member's ability to carry out those duties effectively. Preventing a Member from taking part in a select committee visit could also impede their role as an effective committee member and affect the wider work of the Committee. Therefore, we are of the view that these sanctions should only be imposed by the House itself, rather than the power being delegated to the Commissioner and Independent Expert Panel (in ICGS cases) or the Standards Committee (in non-ICGS cases).

- *Dismissal from select committee*

We agree with the Committee's recommendation (paragraph 118) that dismissal from a select committee or prohibition from being appointed to other select committees or delegations ought to be subject to a decision of the House on the recommendation of the Standards Committee or Independent Expert Panel.

- *Salary or allowances withheld without suspension*

The Committee notes that the sanction of withholding salary without suspension has not so far been imposed but remains an option. We welcome the Committee's conclusion that in both ICGS and non-ICGS cases, it will be for the House itself to impose this sanction on the recommendation of the Independent Expert Panel or the Standards Committee.

- *Suspension and expulsion*

The right of the House to suspend, or in extremis expel, a Member from its service is an ancient one. Responsibility for such action sits with the House itself. We support the Committee's conclusion (paragraph 121) not to propose any change to existing arrangements.

Confidentiality

As set out in the memorandum on confidentiality, we support your recommendation that the Commissioner should again have the power to publish details of non-ICGS cases.

Appeals

As set out above, we believe that the principle of separating investigatory and sanctioning powers is important to ensure independence in the process. The Commissioner has significant powers in both spheres in relation to non-ICGS cases. In this context we welcome the Committee's conclusion (paragraph 136) that "it would be equitable for the Member concerned in those cases to have a right to appeal against such a sanction to the Committee". The Committee's proposal that the House approve the principle of there being an appeals process for non-ICGS cases in line with that of the ICGS will go some way to mitigating the risks of maintaining the Commissioner's dual role in less serious cases.

Conclusion

We are grateful to the Committee for its work and are committed to working with the Committee to draft the necessary motions which will be brought forward for approval by the House.

B. Chair to Leader of the House dated 9 December 2020

Dear Jacob,

Standards Committee reports on confidentiality and sanctions

Thank you very much for attending the Committee on Standards' meeting on 24 November, to discuss the Government's response to the Committee's reports on Confidentiality in the House's standards system and Sanctions in respect of the conduct of Members, contained in your letter to me dated 6 November. My colleagues and I felt that our discussions were useful and they are grateful for the constructive spirit in which you engaged with the Committee.

We have now had an opportunity to discuss these matters further. I have been asked to write to you setting out the Committee's present views. I do this under a series of headings relating to discrete topics in the Government's response, as discussed at our meeting. My understanding is that on other issues raised in the two reports the Government is content to support the Committee's proposals - but I am sure you will clarify matters if I am wrong.

Confidentiality

1) We are pleased that the Government supports the Committee's recommendation that the Commissioner should once again have the power in non-ICGS cases routinely to publish the names of Members under investigation, together with the article of the Code under which they are being investigated.

- 2) In your letter you add that you would welcome further views from the Committee on the Government's view that Members whose names are so published "should be able to respond should they need to if, for example, this prompts speculation in the media as to what the breach of the Code might relate to". At our meeting we discussed this with you.
- 3) Before July 2018 there were restrictions on how MPs could respond if the Commissioner disclosed that she was investigating a complaint, and the Commissioner's initiation letters have always explained that her work is protected by parliamentary privilege and that the correspondence should be kept confidential until the inquiry has been completed. I think the key point is that the Committee is proposing that in non-ICGS cases the House should simply revert to the rules as they stood prior to July 2018, with Members as well as the Commissioner having the same rights they did back then; it is not proposing any further changes. The Committee's recommendation (a) in the report, the one relating to deterrents for unauthorised disclosure, is intended to relate only to ICGS cases and would not therefore restrict the pre-July 2018 rights of Members in non-ICGS cases.
- 4) The Committee is pleased to note that the Government also welcomes the other recommendations relating to confidentiality in its report.

Words of advice

- 5) In your letter you say that "it is not clear why these existing powers [to give words of advice to Members on standards matters] require the explicit authorisation of the House as recommended by the Committee [sanctions report, para 97]. As we indicated at our meeting, the reason for this recommendation is that the Committee proposes the Commissioner should have the power to impose a requirement that a Member attend a formal meeting at which she would indicate her concern about the Member's reported attitude, behaviour or conduct.
- 6) We have now discussed further the background to this proposal. We agreed that it may be helpful in some cases for the Commissioner to be pro-active in approaching a Member whose conduct has given cause for concern, to have an informal "word in their ear", at the beginning of a process which might be escalated if, and only if, the Member's conduct continued to give cause for concern.
- 7) The Committee remains of the view that its proposal in paragraph 97 of the report is sensible and proportionate. We see this as a very modest light-touch extension to the powers of the Commissioner and we envisage it as being helpful to Members in understanding how they can rectify their behaviour without entering into a protracted complaints process. We think that express authorisation of the House for this process is important in establishing clarity for Members about how they co-operate with the Commissioner and her staff.

Requirement to attend training

- 8) In your letter you question the Committee's recommendation that the House should authorise the Commissioner, and the Panel, to require members to attend specified training sessions. You argue that this should only be with the assent of the Member, and note that if they were to refuse consent it might be appropriate for an alternative (and potentially more severe) sanction to be imposed by the Committee. We note that our sister committee in the Lords has recently recommended that Lord Maginnis of Drumglass be

suspended from the service of the House for a period of at least 18 months and until he has successfully completed a designated course of bespoke behaviour change training and coaching.

9) My colleagues and I have discussed this, and consider that although such a length of suspension in the Commons would invoke statutory recall provisions, it would be difficult for the Commons to adopt any lesser standard than the Lords. The Standards Committee has always held that a lack of contrition or a refusal to amend one's behaviour is an aggravating factor when the Committee comes to decide on the appropriate level of sanction. We would also view a refusal to attend suitable training when recommended by the Commissioner or Committee as an aggravating factor. We cannot see how this would be any different in ICGS cases being examined by the Panel.

10) We do however understand the point you make and would therefore suggest that the Commissioner should be able to suggest or recommend training, but that only the Committee or Panel should be able to require that a Member attend training, either as a stand-alone sanction or as part of a package of sanctions recommended to the House.

11) An example might be that Member A is investigated for a breach of the code on bullying. The Commissioner initially recommends that the Member attend training but the Member refuses. The Commissioner then reports to the Panel, who would be free to consider the refusal to attend training as an aggravating factor - and could recommend that a Member be suspended for a set number of days and until the Member has attended training.

Withdrawal of services (including travel)

12) In your letter you note the Committee's conclusion that barring a Member from carrying out any of their core parliamentary functions should be a sanction only to be imposed by the House itself. Your response states "we would urge the Committee to think carefully about what classifies as core vs non-core parliamentary duties". You say, "the Government would welcome further dialogue with the Committee on this point".

13) You say that you recognise that the withdrawal of services from a Member "could be used as an effective form of punishment without being detrimental to the Member's parliamentary duties". However, you add that "there is a risk that such sanctions would hamper the Member's ability to carry out those duties effectively" - and you cite preventing a Member from taking part in a select committee visit as a sanction which could impede their role as an effective committee member. You therefore wish such sanctions to be imposed only by the House itself, not by the Commissioner, Committee or Panel.

14) In our discussions members of the Committee pointed out, and you acknowledged, that select committee travel had been an area of parliamentary activity where in the past there have been complaints of serious misbehaviour by Members. The Committee in its recommendation on withdrawal of services aimed to recognize the potential vulnerability of staff on such visits. However, you argued that many Members regard going on official committee visits as a core part of their parliamentary duties and that deprivation of their right to do so was a sanction that should only be imposed by the House.

15) The question of misconduct on select committee and delegation visits is a matter which falls very much within the remit of the newly appointed Independent Panel rather than that of the Standards Committee. I therefore propose to consult the Chair of the Panel to elicit his views and those of his Panel colleague on the best way of taking this forward.

16) We would therefore propose drawing a distinction between preventing a Member from participating in core proceedings or the work of a body to which the House or the Speaker had expressly appointed them, such as a select committee or parliamentary delegation, which could only be decided by the House on the recommendation of the Committee or the Panel; and preventing a Member from using specific services of the House, such as the bars or restaurants on the parliamentary estate or visiting the Table Office in person, which should be a sanction available to the Committee or Panel.

Appeals

17) In your letter you support the Committee's proposal that the House approve the principle of there being an appeals process for non-ICGS cases in line with that of the ICGS. The Committee's report proposes (in Paragraph 136) that any formal sanctioning powers given to the Commissioner in non-ICGS cases should be appealable to the Committee, and that if the House approves this in principle, the Committee will draw up a framework for such appeals (as it did for appeals in ICGS cases last year). The report makes no specific recommendations about appeals against decisions of the Committee, but in Paragraph 87 the report undertakes that the Committee will consider the question of appeals as part of its ongoing review of the Code of Conduct. In theory, the House itself remains the final arbiter of any serious sanction recommended by the Committee, but we accept this does not provide a proper appellate function.

18) Although this is not a matter which we propose to put before the House as part of this current round of changes, we are keen to reiterate this commitment to consider establishing a formal appeals system as soon as practicable in the context of a new Code of Conduct.

Finally, a recent development has been the House's nomination on 25 November of the Independent Expert Panel on the Independent Complaints and Grievance Service. I will be meeting the Chair of the Panel, Sir Stephen Irwin, shortly to discuss matters of mutual interest. These will include the recommendations in the Committee's two reports insofar as they relate to the ICGS. I will keep you informed of the outcome of our discussions.

If the Government, the Committee on Standards and the Independent Expert Panel can reach agreement on the elements of a revised sanctions system, I hope it will be possible speedily to finalise drafting of the necessary motions to implement the agreed package - in which my officials will work with yours and those of the IEP - and to arrange a debate in the House as soon as possible thereafter.

With best wishes,
Chris
Chris Bryant MP
Chair, Committee on Standards

C. Leader of the House to Chair dated 17 January 2021

Government response to the Committee on Standards' Letter on the Reports on Confidentiality and Sanctions

Dear Chris,

Thank you for your letter of 9 December regarding the Standards Committee reports on confidentiality and sanctions. I am grateful for the invitation to attend the Committee on Standards' informal session on 24 November to discuss the Government response to the Committee's reports. I found the discussion informative and constructive.

I have read your letter setting out the Committee's present views with interest and have addressed the points referred to in your letter in my response below. I would like to reassure you that I am content to support the Committee's proposals on all the other recommendations in the reports. I hope that we can come to an agreement ahead of finalising the motions which I will bring forward for approval by the House.

Confidentiality in the House's Standards System

As I highlighted in my previous letter, I support the recommendation that the Commissioner would again be able to publish brief details of non-ICGS cases on the Parliament website. Thank you for setting out in your letter that the intention is for the House to revert to the rules as they stood prior to July 2018 for non-ICGS cases, for both the Commissioner and Members. One change since then has been lay members being given rights to vote formally and move motions and I note the predecessor Committee's comments in relation to privilege and the risk of legal challenge.

From our discussion at the informal session, I understand that principles of fairness would still apply and that Members would be able to correct media misinformation about a non-ICGS case should they wish to and that there would be no sanction for this, provided it did not amount to lobbying. I would be grateful if the Committee would confirm that this would be the case. If it is, I am content to support the confidentiality report in its entirety.

Sanctions in respect of the conduct of Members

Words of advice

It is sensible for the Commissioner to be able to give both informal and formal words of advice to Members. I agree that authorisation should be given by the House for the Commissioner to be able to require a Member to attend a formal meeting.

However, as discussed, I do think that it would be helpful in some cases for the Commissioner to initiate an approach to a Member whose conduct has given rise to concern; to have an informal word with a Member, which might be escalated if their conduct continues to be a cause of concern. Thank you for clarifying in your letter that the Commissioner would be able to give such informal advice without invoking a formal process. I am, therefore, content to support this proposed sanction.

Requirement to attend training

I am grateful to the Committee for listening to my views at the informal session on the proposed sanction for the Commissioner to be able to require Members to attend training. As I raised then, I believe that training is generally more effective when undertaken with consent and when it is not just viewed as a punishment.

I am pleased that the Committee is sympathetic to the point that I made, and that the Committee's current view is that the Commissioner should be able to suggest or recommend training to a Member but is not able to require that they attend. I agree that any refusal to attend training should be considered as an aggravating factor.

I note that the Committee instead recommends that the requirement to attend training should be able to be imposed by the Committee or Panel, either as a stand-alone sanction or as part of a package of sanctions recommended to the House, and that this is equivalent to the power of the Lords Committee.

I am satisfied that the application of this sanction only by the Committee or Panel would be proportionate and consistent with the Lords' system.

Apologies

The Committee's report proposes that the Commissioner and Panel should be able to require a Member to apologise in ICGS cases. I previously wrote to you for assurance on the disparity between ICGS and non-ICGS sanctioning regimes that would exist if this proposed sanction were implemented, as this power lies with the Committee in non-ICGS cases.

I look forward to the Committee's review of the Code of Conduct and its consideration of this matter with interest.

Withdrawal of services

I have previously expressed some concern with the application of the withdrawal of services as a sanction. I wonder whether it protects staff wellbeing other than the wellbeing of those who provide the service that has been removed from the Member. I am also of the opinion that this sanction could risk hampering Members' duties if access to core parliamentary functions were withdrawn.

I note that this matter also falls within the remit of the newly appointed Independent Expert Panel and that you will, therefore, be discussing this matter with the Chair in order to take this recommendation forward.

I would like to provide my thoughts on the distinction that you make between core and non-core proceedings in your letter. I welcome your view that preventing a Member from participating in core proceedings or the work of a body to which the House or the Speaker had expressly appointed them, such as a select committee or parliamentary delegation, should only be decided by the House.

It also seems sensible that preventing a Member from using specific services of the House, such as the bars or restaurants on the parliamentary estate or visiting the Table Office in person, should be a sanction available to the Committee or Panel. However, there are a

few unresolved issues with this distinction. It is not clear what services would be deemed essential for Members to be able to perform their parliamentary duties. For instance, accessing the Library. I would be grateful if this matter could be considered further with the Independent Expert Panel.

Appeals

In your letter you mentioned that you have made no specific recommendations about appeals against decisions of the Committee but would consider this as part of your continuing review of the Code of Conduct. I welcome this proposal and look forward to that review and its consideration of this matter.

I would also like to take this opportunity to restate my point made in the informal session that there cannot be an appeal against a decision of the whole House.

Conclusion

I would like to thank the Committee for its collaborative approach and helpful manner in which we have engaged on these issues. Please keep me informed of the outcome of your discussions with the Independent Expert Panel. I look forward to coming to an agreement on these reports.

I am committed to taking forward with you the drafting of the necessary motions which I will bring forward for approval by the House.

With every good wish,

Yours ever,

Jacob

Rt Hon Jacob Rees-Mogg MP

Lord President of the Council

Leader of the House of Commons

D. Committee Chair to Leader of the House dated 4 February 2021

Dear Jacob,

Standards Committee reports on confidentiality and sanctions

Thank you for your letter of 17 January. The Committee has now had an opportunity to discuss this with the Chair of the Independent Expert Panel, Sir Stephen Irwin. We had a productive meeting with Sir Stephen last week and I am writing now to respond to the issues raised in your letter. I will deal with these in the order in which you raise them. At the end of the letter I also deal with a specific matter which Sir Stephen has asked me to raise with you.

Confidentiality in the House's standards system

We are in agreement that the Commissioner should be again able to publish brief details of non-ICGS cases on her website. You ask for confirmation from the Committee "that

Members would be able to correct media misinformation about a non-ICGS case should they wish and that there would be no sanction for this, provided it did not amount to lobbying”.

As you note, the intention is to revert to the pre-July 2018 situation in relation to both the Commissioner and Members. We have clarified with the Commissioner what guidance on confidentiality Members are given at the start of an investigation.

She has given us a sample of the information she gives to the Member by letter:

Important information

My inquiries are conducted in private. Following the decision taken by the House on 19 July 2018, I will not publish the fact that I am conducting an inquiry into an alleged breach of the Code of Conduct. My office will not comment on any aspect of the inquiry to third parties. They will answer direct factual questions about the processes I follow, and the standards system more generally, but will neither confirm nor deny that I have begun an inquiry.

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 outcome of my inquiry is published. The same requirement extends to [the complainant].

She supplies further details to the Member in an information note, the text of which was agreed with the Committee in 2015. I attach a copy.²⁰ Relevant extracts from this are as follows:

47. Once the Commissioner has accepted a matter for inquiry, the evidence given to that inquiry and any related correspondence, including any electronic communication, is covered by parliamentary privilege. Evidence given to the Commissioner during an investigation and any related correspondence remains confidential unless and until it is published by the Commissioner or the Committee. Evidence given to the Commissioner and correspondence about the inquiry should not be made available to anyone other than the Commissioner. If it were published or disclosed to anyone else without the Committee's agreement, that would be a contempt of the House of Commons. Any other material made public is not covered by parliamentary privilege. [...]

49. The person making an allegation is not protected from legal action (for example, for defamation of character) unless and until the Commissioner decides to begin an inquiry. Even then, parliamentary privilege will protect only the material given to the Commissioner. It will not protect anything said to others.

²⁰ An updated version is currently being drafted in the Commissioner's office and will be put before the Committee for its approval in due course.

50. The Committee on Standards has made clear that it expects individuals who have made allegations of misconduct to respect confidentiality and not to share information with the media while an inquiry is ongoing.

As the Commissioner's investigation is privileged by virtue of being a 'proceeding in Parliament', the unauthorised disclosure of evidence in an investigation will continue to be a contempt. It is important that both Members and complainants respect the confidentiality of the process, not least so as to avoid a capricious 'trial by media'.

However, in circumstances where significantly incorrect information about the allegation has been made public, we propose that the injured party (Member or complainant) should be able to apply to the Commissioner for a public rebuttal to be issued, either by the Commissioner herself or by the injured party with her express prior approval of the text. We would expect any such rebuttal to be factual and not argumentative in content, and as brief as possible. The response to any such application will be at the discretion of the Commissioner who will thereby keep control of the process.

Where the Commissioner has confirmed that there is no investigation, the Member would obviously be free to comment as he or she sees fit.

In addition, we note that in very many cases a reversion to the pre-July 2018 arrangements will be to the advantage of Members because the Commissioner will again be in a position to confirm that she is not investigating a Member.

Words of advice / Requirement to attend training

I think we are in accord on these matters.

Apologies

The Committee notes your continued concern about the disparity between ICGS and non-ICGS cases under the Committee's proposals (the Commissioner having the right to require an apology in ICGS cases, only the Committee having that right in non-ICGS cases) and confirms its undertaking to revisit this issue as part of its current review of the Code of Conduct.

Withdrawal of services

You told us that there are "a few unresolved issues" about the distinction the Committee now proposes to draw between withdrawal of services which prevent a Member from carrying out their core parliamentary functions (such sanctions to be decided by the House) and preventing a Member from using specific services which do not impinge on their core functions (a sanction we propose should be available to the Committee/Panel). You suggested that the Committee should discuss with the Panel "what services would be deemed essential for Members to be able to perform their parliamentary duties". This is a matter the Committee raised with Sir Stephen in the discussions last week.

Sir Stephen has proposed that four categories of sanction involving withdrawal of services should be distinguished:

- (1) Sanctions that do not in any way interfere with the functions of an MP
- (2) Sanctions that interfere with functions of an MP but not core functions
- (3) Sanctions which interfere with core functions but reflect the nature of the offence, e.g. non-participation in select committee visits if there has been previous abusive behaviour on visits
- (4) Suspension or expulsion, which of their nature interfere with core functions.

We accept this set of categories and propose that sanctions (3) and (4) in this list should only be imposed by decision of the House. It should be noted that under this proposal, sanctions interfering with the core functions of a Member will only be imposed where they arise from the nature of the offence, or (as has always been the case) in cases serious enough to merit suspension or expulsion.

We would define the core functions of a Member as (a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents. A sanction such as physical exclusion from the Table Office or the Members' Library would not be regarded as interfering with core functions because the Member would still be able to table questions, access Library services, etc., by electronic means. If the Panel or the Committee is in any doubt as to whether a sanction would interfere with core functions, we would expect it to seek the views of the House authorities where appropriate, and to err in its decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter.

We emphasise, as we have previously, that these proposals are without prejudice to the existing rights of the House Service to impose restrictions of service upon Members where necessary as management actions and not as sanctions; and that any sanctions should penalise a Member who has broken the rules, but as far as possible should not impact negatively upon either the Member's staff or constituents.

Appeals

The Committee is happy to confirm its intention to look at options for setting up a formal system of appeals in non-ICGS cases as part of its current review of the Code. (This is a matter on the Committee's agenda for discussion at its meeting on 23 February although we may not be in a position to take final decisions on it at that meeting.)

I hope that if you are content with the position we have arrived at on these various issues, it will be possible for the House to consider the motions necessary to implement them (on which the Committee secretariat and the Journal Office will work closely with your officials) in the near future, to allow the Independent Expert Panel to exercise a full range of sanctioning powers as it deals with the backlog of ICGS cases which it has inherited.

Request from the Independent Expert Panel

Finally, Sir Stephen Irwin has asked me to pass on a request from the Panel that some formal mechanism be instituted to ensure that a report from the Panel recommending a sanction for approval by the House should be put before the House for decision without delay. He cited the hypothetical but not impossible circumstances in which a future Government with a very small majority might seek to delay putting a Panel report to the House in order not to lose the vote of the Member concerned in some pending crucial division. To reassure the Panel on this point, I would support a change to standing orders to require the Government to put the necessary motion before the House for decision within two sitting days of publication of the Panel's report. (It would be logical for this proposal to apply also in respect of reports from the Standards Committee.) I would be grateful if you could let me know whether the Government would be willing to agree to this proposal.

I am copying this letter to Kathryn Stone, Parliamentary Commissioner for Standards, and to Sir Stephen Irwin, Chair of the Independent Expert Panel.

With best wishes,
Chris
Chris Bryant MP
Chair, Committee on Standards

E. Leader of the House to Committee Chair dated 23 February 2021

Dear Chris,

Thank you for your letter of 4 February regarding the Standards Committee reports on confidentiality and sanctions. I am grateful for the Committee's consideration of the evidence I gave at the informal session on 24 November and of my letters outlining the Government view of the Committee's reports.

I am pleased that we have reached agreement on a number of detailed points arising from the reports. On this basis, I would like to offer my support for both reports and will bring them forward for approval by the House.

Confidentiality in the House's Standards System

I am grateful to the Committee for considering whether Members themselves should be able to correct media misinformation about a non-ICGS case should they wish to.

I note the Committee's suggestion that where there is erroneous information in the public domain, the injured party - whether complainant or the party being complained about - should be able to apply to the Commissioner for a factual rebuttal to be issued, either by the Commissioner or by them, with the Commissioner's approval. I also welcome the Committee's confirmation that where the Commissioner has confirmed there is no investigation, the relevant Member would be able to comment as they see fit.

The rebuttal approach proposed seems a sensible one that would ensure that erroneous information in the media could be addressed in a prudent manner. I am, therefore, content to support the confidentiality report in its entirety. I would add, however, that

confidentiality around disciplinary matters continues to be a most contentious issue, with regards to both complainants and respondents. In particular, it remains imperative that the identity of those involved in ICGS cases is appropriately protected and I know that confidentiality is a matter that the House will want to treat with the utmost sensitivity.

Sanctions in respect of the conduct of Members

I am pleased that we have come to an agreement on the sanctions of words of advice and the requirement to attend training.

I am also content that, as part of the review of the Code of Conduct, the Committee is looking into both the disparity between ICGS and non-ICGS caused by the Committee's proposal on apologies, and establishing a formal system of appeals in non-ICGS cases. I look forward to the Committee's review and its consideration of these matters with interest.

Withdrawal of services

I would like to thank the Committee for giving consideration to the matter I raised around the definition of core and non-core services. It is imperative that services that are core to a Member's parliamentary duties should only be able to be withdrawn by a decision of the House and I am glad that the Committee is in agreement.

I support the Committee's interpretation of core functions as a Member's participation in formal proceedings and ability to communicate with and make representations on behalf of their constituents. I agree with the proposal that the Committee or Panel should only be able to withdraw services that would not amount to an interference with the functions of an MP at all, or would interfere with their functions, but not their core functions as defined.

Furthermore, I agree with the Committee's view that where there is any doubt as to whether access to a particular service affects a Member's core function, the Committee and Panel should err on the side of caution.

I am, therefore, content to support the Committee's proposal for the sanction of the withdrawal of services and therefore the sanctions report in its entirety.

Approval of Sanctions

I would like to thank the Committee for raising the Independent Expert Panel's request that there be a formal mechanism to ensure a report from the Panel recommending a sanction be put before the House for a decision within two sitting days. I note that the Committee would support a change to standing orders to this effect.

I recently discussed this matter with the Chairman of the Independent Expert Panel, Sir Stephen Irwin. As I set out to him, I have strong reservations about this proposal, not least as it would limit Parliament's flexibility to respond to the exigencies and priorities of the day. However, of course, I entirely agree that motions of this type should be brought forward expediently, and will be writing to the Chairman of the Panel shortly to commit to doing so as Leader, and to set out my views on this matter.

Conclusion

I would like to thank the Committee for its collaborative engagement on these issues and for keeping me informed of your discussions and would encourage you to do the same with the Shadow Leader of the House.

I am pleased to support both the 'Confidentiality in the House's Standards System' and 'Sanctions in respect of the conduct of Members' reports. I am committed to taking forward with you the drafting of the necessary motions which I will bring forward for approval by the House as soon as parliamentary time allows.

With every good wish,

Yours ever,

Jacob

Rt Hon Jacob Rees-Mogg MP

Lord President of the Council

Leader of the House of Commons

Formal minutes

Tuesday 23 March 2021

Members present:

Chris Bryant, in the Chair

Tammy Banks	Mark Fletcher
Jane Burgess	Sir Bernard Jenkin
Charmaine Burton	Anne McLaughlin
Andy Carter	Prof Michael Maguire
Rita Dexter	Dr Arun Midha
Chris Elmore	Paul Thorogood

Draft Report (*Sanctions and confidentiality in the House's standards system: revised proposals*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 35 read and agreed to.

Annex agreed to.

A paper was appended to the Report.

Resolved, That the Report be the Twelfth 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.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[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 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