



HOUSE OF LORDS

Conduct Committee

5th Report of Session 2021–22

**Revised Code of Conduct
for House of Lords
Members' Staff**

**Minor changes to the
Guide to the Code of
Conduct**

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Conduct Committee

The Conduct Committee reviews and oversees the Codes of Conduct and the work of the House of Lords Commissioner for Standards. Recommended changes to the Codes are reported to the House and take effect when agreed by the House.

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Fifth Report

INTRODUCTION

1. This report is in two parts. The first part proposes revisions to the Code of Conduct for House of Lords Members' Staff. The second part recommends two small adjustments to the Guide to the Code of Conduct for members, relating to the grace period for registration of foreign interests and to the process which the Commissioners for Standards follow in investigating alleged breaches of the Code.
2. If the House agrees this report, a new edition of the Codes of Conduct and Guide will be published and circulated to all members with a summary of recent changes. We are conscious that we have recommended a significant number of changes to the Codes and Guide since the Committee was appointed, but we believe that they have been necessary in order to make the document as robust and effective as the House and the public deserve. While future amendments will no doubt prove necessary, we intend to package them up so that the House will be invited to make amendments perhaps once or twice a year only.
3. **We invite the House to approve the amendments proposed below.**

CHAPTER 1: CODE OF CONDUCT FOR HOUSE OF LORDS MEMBERS' STAFF

4. The Code of Conduct for House of Lords Members' Staff ("the Staff Code") was first agreed in 2014, following a recommendation by the Council of Europe Group of States Against Corruption (GRECO). As our predecessor committee noted at the time, "Possession of a parliamentary pass and access to those who work on the parliamentary estate are significant privileges, and we think that the concomitant responsibilities should be set out clearly and authoritatively." Since then, the Staff Code has been subject to some minor amendments, mostly mirroring those to the Code of Conduct and Guide to the Code for Members, but there has not been a thoroughgoing review.
5. There are now nearly 500 members' staff, many of whom have substantial (and in some cases senior) roles outside Parliament.¹ These staff fall into three categories: secretaries and research assistants, carers, and drivers. The Staff Code only applies to those in the first category. The House recently agreed² to a proposal from the Commission to tighten up the eligibility criteria for passes for secretaries and research assistants, and to clarify the obligations on those who hold them. The relevant rule reads as follows:

"Members may only sponsor a pass for an individual ... if the absence of such a pass would make it impossible for the individual to support the member effectively. Such passholders must use their Parliamentary pass only to provide Parliamentary support to the sponsor and other members of the House, and not in furtherance of any other interests of their own or of other organisations for which they work. Members may not sponsor a pass for anybody whose primary role is to support an All-Party Parliamentary Group."

6. We welcome this change, which has prompted us to review the Staff Code (a) to ensure that it remains appropriate and (b) to clarify some uncertainties which have been brought to our attention by the office of the Registrar of Lords' Interests. The remainder of this report explains our proposed amendments in the order they apply to the existing Code, and the full Code with the proposed amendments is annexed.

Paragraph 1

7. The first paragraph sets out to whom the Staff Code applies: "staff who have a parliamentary photo-pass or email account sponsored by a member of the House of Lords for the purpose of providing parliamentary secretarial or research assistance to the member". It would make more sense to refer to "network account" rather than the narrower "email account". This does not make any practical difference as it is not possible to have a parliamentary email account without having a network account.

Paragraphs 4–6: general principles

8. Paragraphs 4–6 of the Code set out the general principles applying to members' staff. These do not include the duty on members to base their actions on consideration of the public interest,³ which is reasonable given the

1 Details of their interests are published online, linked to the entry for the sponsoring member: <https://members.parliament.uk/members/lords/interests/register-of-interests-of-lords-members-staff>

2 HL Deb, 11 November 2020, col 1042.

3 Code of Conduct, paragraph 7.

different functions of members and staff, but we do believe that it would be worth making explicit that members' staff must act consistently with the duty which applies to the member who sponsors them. We therefore propose to add the following sentence to paragraph 4 of the Code: "In the performance of their duties, members' staff shall always act consistently with the duty of the sponsoring member of the House to base their actions on consideration of the public interest."

9. We also propose to merge paragraph 6 with paragraph 4; to move paragraph 12 (Lobbying etc.) into the general principles section to underline its importance; and to introduce new text making clear that, like members, members' staff may not provide parliamentary advice or services in return for payment or other incentive or reward.

Paragraphs 7–11: registration of interests

10. We have considered the registration of members' staff interests, particularly in the light of the growing number of outside interests and positions held by members' staff since the Code was introduced in 2014. We propose the following changes, which clarify the requirements and, where appropriate, bring them more in line with those for members.
 - (a) Making it explicit that members' staff must register all directorships of public or private companies, paid or unpaid.
 - (b) Clarifying that they must register all paid work outside the House.
 - (c) Requiring them to disclose if they are a Person with Significant Control of a company, as recorded by Companies House.
 - (d) Clarifying that any shareholding in a business or organisation involved in parliamentary lobbying should be registered.
 - (e) Improving the wording relating to gifts and benefits.
 - (f) Requiring them to register the same non-financial interests as members.
11. We also recommend a consequential amendment to paragraph 8.

New paragraphs 13A and 13B: external investigations / imprisonment

12. The House has recently agreed that members should inform the Clerk of the Parliaments (a) if they are arrested in connection with, charged with, or convicted of a criminal offence, or (b) placed under investigation by a body which regulates the occupation they practise and/or found in breach of the rules which govern that occupation. We propose to extend these provisions to members' staff.
13. Similarly, we recommend including provisions for members' staff in relation to imprisonment. While the same level of public accountability does not apply to members' staff as it does to members themselves, the Committee considers it appropriate that the House should be able to take action where a member of staff is sentenced to imprisonment. The text below proposes that members' staff sentenced to imprisonment are "presumed" to have breached the Code.
14. There is also a question of whether members' staff who are found in breach of rules governing the occupation which they practise should be "presumed" to

be in breach of the Code. There is no such provision for members but it may be useful for the House to have the power to remove parliamentary passes and/or network access from members' staff who have behaved disreputably in their professional lives, for example by being struck off a professional register or breaching lobbying guidelines.

Paragraphs 15–23: enforcement

Appeals

15. Currently, the Staff Code makes no explicit reference to appeal procedures, relying instead on a broad reference to the procedures in the Code for members. We propose amendments to paragraph 18 to clarify the position.

No public report

16. The Commissioners for Standards and the Conduct Committee have discretion not to publish reports on members' staff where it would be disproportionate to do so, and to report only to their sponsoring members. This provision means that there may be cases where the confidentiality that applies during an investigation must remain in place indefinitely. We propose an amendment to make this clear, but with a clause allowing either party to apply to the Conduct Committee for the confidentiality requirement to be lifted in exceptional circumstances.

Remedial action and sanctions

17. We propose amendments to clarify (a) the process for agreeing remedial action, and (b) the range of sanctions available (although the list is not intended to be exhaustive).

Requirement to comply with sanctions

18. The Staff Code does not include a requirement for members' staff to comply with any sanction. Previously this was not an issue as the anticipated sanctions could all be imposed without the cooperation of the respondent. However, other sanctions that may now be applied, such as training, require the respondent's cooperation. We therefore propose a clear compliance provision, as exists in the Members' Code.

CHAPTER 2: MINOR CHANGES TO THE GUIDE TO THE CODE OF CONDUCT

Registration of foreign interests

19. The House has agreed that members should be required to register earnings from “governments of foreign states (including departments and agencies), organisations which may be thought by a reasonable member of the public to be foreign state-owned or controlled, and individuals with official status (whether executive, legislative or judicial) in foreign states when acting in that capacity”. When those provisions were introduced, the House agreed a “grace period” until 31 December 2021 during which the new provisions would not apply to professional relationships which pre-dated the new requirements. This would allow members to complete the work in question, obtain the client’s agreement to disclosure, or if necessary end the relationship.
20. We are aware that some members are engaged in arbitrations which existed when the Committee’s first report was agreed on 2 December 2020 and which are not expected to finish by the time the grace period expires at the end of 2021. Members in such a position could, if the parties to the arbitration objected to the disclosure required by the Code of Conduct, be faced with the unenviable choice of having to take leave of absence or withdrawing from the arbitration which could cause it to collapse.
21. With this in mind, we propose to allow any member (not just lawyers and arbitrators) to request an extension to the grace period on a case-by-case basis. Such requests would be submitted to the Registrar of Lords’ Interests, who would grant an extension provided he was satisfied that the member had met the following four conditions:
 - (a) the professional relationship existed before 2 December 2020,
 - (b) the piece of work in question is self-contained with an end point rather than an indefinite continuing professional relationship,
 - (c) the piece of work is unlikely to be completed by 31 December 2021, and
 - (d) there are compelling reasons for maintaining the confidentiality of the relationship.
22. Where the conditions are met, it is suggested that an extension would be granted for as long as required to complete the piece of work, rather than for fixed periods which might require the member to keep on applying for further extensions.
23. This modification to the grace period does not require an amendment to the Code or Guide. **The House is asked to approve the modification to the grace period set out in paragraphs 21 and 22, above.**

Proposed change to investigatory process

24. The Guide to the Code of Conduct currently requires the Commissioner for Standards to prepare a summary of the facts and, later, a summary of breaches found and to share each in turn with the member concerned. This two-stage process adds to the time taken to complete investigations and can lead to unnecessarily lengthy reports. It is also out of line with other investigatory

systems. We believe that the two stages should be combined so that the member is shown the factual content and the findings (but not the proposed sanction) at the same time. This would give the member the opportunity to comment on the accuracy of the evidence and the appropriateness of the findings, and to provide any material to be taken into account when considering sanction, in one go. We also propose to delete some redundant wording from paragraph 158 of the Guide.

25. We therefore propose the following changes to paragraphs 155–158 of the Guide to the Code (new text in **bold**, deleted text in strikethrough):

~~“155. If the Commissioner’s investigation has uncovered material evidence that is at variance with the member’s version of events, she will put this to the member, who will have a chance to challenge it. Before finalising their report and (where applicable) proposing a sanction, the Commissioner will also share their findings in draft with the member a summary of the evidence she has obtained upon which her findings will be founded, so that the member has an opportunity to comment on it~~ **the accuracy of the evidence and the provisional findings based on that evidence. If necessary, the member is also invited to present any material they would wish the Commissioner to take into account when considering their recommended sanction.** In cases involving bullying, harassment or sexual misconduct, the Commissioner will provide the complainant with the same opportunities to challenge or comment on the **accuracy of the evidence and the provisional findings based on that evidence.**

~~156. If, having considered the member’s comments, the Commissioner considers that there remain significant contested issues of fact, she will prepare her own account of the facts of the case, drawing attention to those points which are contested.~~

~~157. After preparing her own account of the facts of a case, the Commissioner will consider whether the Code has been breached. If she finds that the Code has been breached and that remedial action is inappropriate, she will inform the member of the breaches she has found with a summary of the relevant parts of her report. The member will then be invited to present any material they would wish the Commissioner to take into account when considering her recommended sanction.~~

158. The Commissioner usually reports their findings in the following form:

- summary of the initial complaint and of the relevant elements of the Code of Conduct;
- brief account of the key facts in the case, with references to evidence as appropriate and with any contested points of fact highlighted;
- their findings with reasons as to whether or not the Code has been breached; and
- any evidence, written and oral.”

26. **The House is invited to agree the amendments to the Guide to the Code set out in paragraph 25, above.**

APPENDIX : PROPOSED AMENDMENTS TO THE MEMBERS' STAFF CODE

Code of Conduct for House of Lords Members' Staff

1. This Code of Conduct for Members' Staff applies to staff who have a parliamentary photo-pass or email **network** account sponsored by a member of the House of Lords for the purpose of providing parliamentary secretarial or research assistance to the member. The same Code of Conduct applies to members' spouses or partners who provide such assistance and the staff of the opposition whips' offices.

2. The Code does not apply to staff working in the Government Whips' Office or the staff of the office of the Convenor of the Crossbench Peers. The former are civil servants and special advisers and therefore fall under the Civil Service Code or the Code of Conduct for Special Advisers. The latter are employees of the House of Lords Administration on temporary loan and are subject to the same rules and processes as other House staff. Both sets of staff are however still subject to the Independent Complaints and Grievance Scheme and investigation by external investigators.

3. Members of the House of Lords do not receive a specific allowance for employing staff; consequently, the level of staff support for members varies widely. Many staff working for members obtain income from sources outside the House.

General principles

4. Members' staff should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the House of Lords. **In the performance of their duties, members' staff shall always act consistently with the duty of the sponsoring member of the House to base their actions on consideration of the public interest. Members' staff should not take any action which would risk undermining any member's compliance with the Code of Conduct for Members of the House of Lords.**

4A. Members' staff shall not make use of their access to the member who sponsors their pass, to other members (of either House), to the parliamentary network or to the Parliamentary estate to further the interests of an outside person or body from whom they have received or expect to receive payment or other incentive or reward.

4B. Members' staff may not provide parliamentary advice or services in return for payment or any other incentive or reward.

5. Members' staff should observe the principles set out in the Parliamentary Behaviour Code¹² of respect, professionalism, understanding others' perspectives, courtesy, and acceptance of responsibility. These principles will be taken into consideration when any allegation of bullying, harassment or sexual misconduct is under investigation.

~~6. Members' staff should not take any action which would risk undermining any member's compliance with the Code of Conduct for Members of the House of Lords.~~

12 See Appendix A.

Registration of interests

7. Members' staff are required to register in the Register of Members' Staff Interests:

- (xa) all directorships of companies, paid or unpaid;**
- (a) all employment **paid work** outside the House;
- (aa) if they are a Person with Significant Control of a company;**
- (b) any ~~other financial interest~~ **shareholdings** in businesses or organisations involved in parliamentary lobbying;
- (c) any gifts (e.g. jewellery) or benefits (e.g. hospitality, services or facilities) received in the course of a calendar year, if the value of the gift or benefit exceeds **totalling a value greater than £300 from a single source in a calendar year** and if it ~~if they~~ relates to or arises from the individual's work in Parliament (though excluding gifts or benefits from the member who sponsors the individual);
- (d) any non-financial interest as defined in category 10 of the Guide to the Code of Conduct for members.**

8. When registering employment **an interest in an organisation**, members' staff should ~~state the employing organisation,~~ **specify** the nature of its business (where this is not self-evident **from its name**) and the nature of the post that they hold ~~in the organisation.~~

9. It is the responsibility of members' staff to keep their entry up-to-date by notifying changes in their registrable interests within one month of each change occurring. Failure to do so is a breach of the Code of Conduct.

10. Members' staff are expected to respond to the Registrar's annual audit notice within four weeks. Reminders will be sent but irrespective of the sending or receipt of any such reminder, it is a breach of the Code not to respond to the annual audit notice within six weeks of its original sending.

11. The Registrar of Lords' Interests is available to advise members' staff and members themselves on the registration requirements. Anyone who acts on the advice of the Registrar in registering or not registering an interest satisfies fully the requirements of the Code of Conduct for Members' Staff in that regard.

Lobbying, etc.

~~12. Members' staff shall not make use of their access to the member who sponsors their pass, to other members (of either House), to the parliamentary email network or to the parliamentary estate to further the interests of an outside person or body from whom they have received or expect to receive payment or other incentive or reward.~~

Behaviour Code

13. Members' Staff are required to treat those with whom they come into contact in the course of their parliamentary duties and activities with dignity, courtesy and respect. Behaviour that amounts to bullying, harassment or sexual misconduct is a breach of this Code.

External investigations and imprisonment

13A. Members' staff must, within 10 working days of being notified by the relevant authority, inform the Clerk of the Parliaments if they are:

- **arrested in connection with a criminal offence;**
- **charged with a criminal offence;**
- **convicted of a criminal offence;**
- **placed under investigation by a body that regulates the occupation which they practise;**
- **found in breach of rules governing the occupation which they practise; or**
- **sentenced to imprisonment in the United Kingdom or in any other jurisdiction.**

13B. Members' staff who are sentenced to imprisonment (whether the sentence is suspended or not) in the United Kingdom or in any other jurisdiction, or found in breach of rules governing the occupation which they practise, are presumed to have breached this Code.

Confidential information

14. Members' staff shall not disclose draft reports of select committees or other confidential information that is provided to them or to the member who sponsors them.

Enforcement

15. The House of Lords Commissioners for Standards investigate alleged breaches of this Code. Any such investigation is conducted in accordance with the procedures set out in the Guide to the Code of Conduct for Members of the House of Lords, *mutatis mutandis* **amended as necessary according to the circumstances.**

16. Members' staff shall co-operate at all stages with any investigation into their conduct, or that of their sponsoring member, by or under the authority of the House.

17. The Commissioners shall publish a report into any breach of the Code resolved by remedial action except where they consider this to be disproportionate to the breach. In the event of the Commissioners not producing a report in such circumstances, they will typically inform the relevant sponsoring member of the complaint, their finding and any action agreed. Where remedial action is not appropriate or agreed, the Commissioners will report to the Conduct Committee.

18. The Conduct Committee shall consider reports by the Commissioners into alleged breaches of this Code **and any appeals against findings or sanctions** in accordance with the procedures set out in the Guide to the Code of Conduct for Members of the House of Lords, *mutatis mutandis* **amended as necessary to ensure fairness and natural justice.**

19. The Conduct Committee shall publish a report of its findings except where it considers this to be disproportionate to the breach. In the event of the Conduct Committee not producing a report in such circumstances, the Committee will

typically inform the relevant sponsoring member of the complaint, its finding and any action taken.

19A. Where a report is not published by either the Commissioners or the Conduct Committee, the confidentiality of the proceedings must be respected by those party to the investigation indefinitely. Either party may apply to the Conduct Committee to lift the confidentiality requirement by reason of exceptional circumstances.

20. Where a member of staff is found in breach of this Code and the case is not suitable for remedial action to be agreed between the Commissioner and the individual (~~or between the Commissioner and the member~~), the sanctions that may apply include:

- suspension of the individual's pass;
- ~~withdrawal~~ **cancellation** of the individual's pass;
- cancellation of the individual's email **network** account;
- **requirement to attend training;**
- **denial or restriction of access to facilities and services.**

21. The Conduct Committee may impose sanctions on members' staff on its own authority and without recourse to the House.

21A. Members' staff must comply with any sanction imposed by the Conduct Committee. Any failure to do so shall constitute a breach of the Code of Conduct.

22. Nothing in this Code affects the right of Black Rod or the Yeoman Usher to remove a pass at any time for security-related or other reasons.

23. Nothing in this Code affects the right of the Parliamentary Digital Service to cancel an email account at any time for security-related or other reasons.
