

**Written evidence submitted by Rt Hon Mark Francois MP**

HOUSE OF COMMONS

LONDON SW1A 0AA

Chris Bryant MP
Chairman
Committee on Standards
House of Commons
Westminster
SW1A 0AA.

9 February 2022

Sent via email – hard copy to follow

Dear Chris,

Review of the Code of Conduct: Proposals for Consultation

Please find enclosed in this letter my comments in response to your Committee's ongoing review of the Code of Conduct for Members of Parliament. I have sought to keep my response as succinct as possible.

There are a number of proposals in the consultation which I would like to support. For instance, I agree with the Committee's proposals not to extend the Commissioner's remit to investigate complaints about the handling of constituency casework, as:

"Removing this exemption would be likely to lead to an increase in the number of complaints, some of which would undoubtedly be vexatious, 'weaponised' by a Member's political opponents, or would require the Commissioner to make difficult decisions as to whether a member had behaved reasonably in the handling of casework." (para 66).

Similarly, I support the suggestion in the report of seeking to achieve greater clarity in the rules regarding the use of Parliamentary letterhead/stationery etc, which, I suspect, would also be welcomed across the House. However, the Committee's report does not provide much further explanation of what these changes are actually likely to be or indeed when they will come into force. As the work in this area appears to be ongoing, I would like to make a plea for the new rules to be made as simple and transparent as possible, not least in order to avert potentially large numbers of inquiries under the "safe harbour" proposals. In short, the more clear-cut the new rules are in this area, the better.

However, while I note the proposed change in the "descriptors" for the seven Nolan principles of public life, if this is to be done, I do not think it is necessary to then invent what would effectively be an eighth principle of "respect," as defined in the report.

My greatest concern, however, (which, in fairness, I have previously expressed in exchanges with you on the floor of the House) is that nothing in the revised Code should be allowed to impinge on the rights of Freedom of Speech for members, as enshrined in Article 9 of the Bill of Rights. This important element of Parliamentary Privilege, which must be used responsibly, is a fundamental part of our constitution and should not be watered down in any way, whether relating to proceedings in the Main Chamber, Westminster Hall or Select Committees.



This is important in relation to the proposed new stipulation in the Code that: "*Members must not subject anyone to unreasonable and excessive personal attack.*" I understand that the genesis of this is the introduction of similar guidelines in some of the devolved assemblies and also some incidents where some Members have apparently over-reacted to personal criticism, including via social media.

However, let me posit you a scenario in which, during a select committee hearing, a diligent Member is doggedly pursuing a witness, say for instance over a multi-billion pound Government IT project, which has gone horrendously wrong, at great cost to the taxpayer and where, as a result, the principal witness is being deliberately evasive in their replies. If the Member pursues the matter and is critical of the Department/witness, that person could seek to imply during the hearing that they are being subjected to "excessive personal attack" or even "unreasonable" criticism, thus trying to position the Sword of Damocles of a Commissioner's investigation above the head of a Member who is only seeking after truth (and indeed the effective use of public money) both on behalf of their constituents and the House.

In such a situation, it should be for the Chair of the relevant Committee to ensure fair play (assisted by the Standing Orders of the House) and not for the Commissioner, who could otherwise be placed in the invidious position of having to "second guess" the decisions of the Chair and thus adjudicate on the conduct of a Select Committee hearing, perhaps months after it has taken place.

For this reason, I am not sure that this proposed new measure, which would apply "*to any medium*" (para. 58) is required at all. However, even if it is, it should be made absolutely crystal clear in the revised Code that this applies to MPs use of social media etc but does not impinge, in any way, on Article 9 of the Bill of Rights and the ability of MPs to speak in Parliament or its Committees, as the report characterises it "*without fear or favour*" (para. 54) in the pursuit of their Parliamentary duties.

I hope that these several suggestions are helpful to your Committee in its deliberations on the Revised Code, which I understand the House is now likely to vote upon, probably sometime after Easter.

In the meantime, I am copying this letter to Sir Graham Brady MP, Chairman of the 1922 Committee and to John Cryer MP, Chair of the Parliamentary Labour Party, as a courtesy.

Yours ever.

A handwritten signature in blue ink, appearing to read 'Mark Francois'.

Rt Hon Mark Francois

Member of Parliament for Rayleigh and Wickford

CC Sir Graham Brady MP, Chairman of the 1922 Committee
John Cryer MP, Chair of the Parliamentary Labour Party