

## Written evidence submitted by Claire Simpson

Dear Clerk of the Committee on Standards,

- 1) I am responding to the Consultation Document regarding Codes of Conduct in Parliament.
- 2) I am an ordinary member of the public who has been concerned about the way the current Commissioner on Standards and the current Committee on Standards has dealt with the case of Owen Paterson, and believe these issues must be considered carefully so as to avoid such problems in the future.
- 3) My concerns were raised by the interview Owen Paterson gave to GB News on 31/10/21 and I would ask anyone who intends to suggest amendments to the current ways of dealing with Standards in Parliament should view this interview, which is available on YouTube:

Owen Paterson What happened to me is wicked and shameful.:

<https://m.youtube.com/watch?v=O4ePYUvIZJs>

You will notice that this interview took place before the debates in Parliament on these matters in November 2021. At the time of the interview Owen Paterson was hoping that Members of Parliament would appreciate the problems exposed by his case, and that changes would be made in his case and future cases. In the event Parliament signally failed to address the problems in Owen Paterson's case; and, whatever our views are on the confusion in Parliament about how to deal with the contentious findings of the Committee on Standards in Owen Paterson's case, and whatever our views are on the subsequent Parliamentary U-turn on Owen Paterson's case, it must be obvious that matters need to be improved so that there is no such contention and confusion in the future. There are important issues raised by Owen Paterson's case which must not be forgotten when considering how to improve Standards in Parliament in the future.

4) I have also read the Committee on Standards report on Owen Paterson, which included Mr Paterson's written testimony to the Committee, which I will refer to. Mr Paterson's information contained no less than 17 authoritative witness statements to corroborate what had happened in his case but these failed to convince the Commissioner on Standards and then the Committee on Standards. This information overall helped me to further understand the considerable problems in the way that standards in Parliament are currently dealt with.

5) I have also read the deliberations of the House of Commons about this Committee report on 3/11/21 and 16/11/21 ( Ref Hansard of those dates) and will refer specifically to the contributions of Jacob Rees Mogg, Dame Andrea Leadsom and Sir William Cash. I would recommend that their full contributions should also be read and considered very seriously, as their experience and knowledge will be critical to understanding the flaws in the current system. I note that, on the occasions mentioned above, the House of Commons was specifically considering the matter of standards overall because of concerns raised with the Leader of the House (Jacob Rees Mogg) in the case of Owen Paterson and other standards cases, which were drawn to his attention by many MP's on both sides of the House. The MP's concerns included: the lack of examination of witnesses; the unused mechanism for the appointment of an investigatory panel; the interpretation of rules relating to whistleblowing; the length of time taken and the lack of continuity in participation and investigations; the application of aggravating factors; and the absence of the right of appeal. I address these concerns in the following paragraphs.

6) I believe that in future our elected Members of Parliament must be protected from the faults in the current Standards system, and that they should not have less rights to fairness and justice than members of the public who have cases brought against them in other workplaces and professions. (The MP's rights currently lacking include amongst them the right to representation, examination of witnesses and independent appeal.) I cannot think that anyone would disagree with these broad objectives. I will aim to draw out the areas where the Consultation Document causes me most concern about future proposals of the Committee on Standards, which are highlighted by the way the Commissioner on Standards and Committee on Standards have dealt with Owen Paterson:

My specific concerns are:

a) Paragraph 215: I oppose the proposal by the Committee in future to omit the current Investigatory Panel from Standing Order 150; such a Panel if used would enable the possible examination and cross-examination of witnesses and this ability is believed by experienced Members of Parliament to be a vital tool in establishing the true facts. The avoidance of an Investigatory Panel also puts more power in the single hands of the unelected Commissioner on Standards. The Committee on Standards failed to require the use of this vital tool of fairness in the case of Owen Paterson. In November Sir William Cash in Parliament (Ref Hansard) made it absolutely clear that, central to finding out the truth, this tool should have been used in seriously contested cases such as Owen Paterson, and, without this Panel investigating and reporting back, that guilt or innocence could not be established. In my view this was his very diplomatic way of saying in effect that the investigations and conclusions of the Commissioner on Standards and the Committee on Standards, as reported at that stage, could not be taken as properly reliable in the case of Owen Paterson, who was seriously contesting their findings. Jacob Rees Mogg and Dame Andrea Leadsom also made it clear in Parliament in November that Investigatory Panels are an important tool in the search for truth and fairness. A very important aspect of the currently designated Investigatory Panel is that a legal assessor would be involved, and as mentioned above significant witnesses could be called and examined. This absolutely vital tool should therefore not be removed from Standing Orders unless an alternative kind of Panel is set up in its place, perhaps with a properly independent chair (so ruling out the Commissioner on Standards as chair), the new chair perhaps having legal qualifications if considered important. It is useful to note that the current Panel is chaired by the Commissioner on Standards, who ends up being investigator as well as judge. The following section covers the problems with such an arrangement.

b) Paragraph 233: The current situation where the Commissioner on Standards investigates and has first instance decision-making abilities can lead the Committee on Standards in a particular direction, whether that direction is suitable or otherwise. I believe that the Commissioner should not have the power to make decisions on her own, as decisions should be reached by a broader spectrum of opinion, probably including elected Members of Parliament; sole decision-making also opens up the possibility of an early conclusion by the Commissioner on the guilt of a Member of Parliament, before due process has taken place, as no counterbalance is there to prevent it. The drawing of early conclusions could also result in a search for further incriminating evidence, extending the remit and time of the investigation and undermining the normal legal requirement that a person is innocent until proven guilty. This point is very important because Mr Paterson had indicated in his GB News interview that the Clerk of the Committee on Standards had told him that the Commissioner on Standards had written on 2/9/21 to say that she had already made up her mind about Mr Paterson even before her first Memorandum in December 2020 (which, by the way, allegedly contained inaccuracies and was later amended in the light of facts drawn to her attention.) These issues are very important because in Mr Paterson's interview on GB News he talked about the extreme anxiety induced in his wife by the manner of the very protracted and ever widening investigations by the

Commissioner on Standards into Mr Paterson's case (these started in October 2019) and about his wife's concerns that the Commissioner was determined to find something against Mr Paterson. Tragically his wife took her own life in June 2020 in the course of these investigations, and this tragedy demonstrates, above all else, that the way such matters are dealt with in the future must be of great concern, and that they must be considered properly in order to avoid such a tragic event occurring in the future. This is a very significant concern. I feel certain that the Commissioner on Standards should not have first instance sole decision-making abilities and that a wider spectrum of opinion must be sought if there is to be reasonable chance that full and fair justice is carried out.

c) Paragraph 232: There are no new or useful recommendations by the Committee of an external appeal system to the findings of the Commissioner on Standards for investigated Members of Parliament; apparently this is because the current Committee on Standards considers itself to be an adequate appeal against the Commissioner's findings, despite there being no formalised means of this activity. The lack of useful new recommendations in these respects is not acceptable, as this would perpetuate any problems with the activities of the Committee on Standards. The many concerns of MP's about the processes and findings of the Committee in the case of Owen Paterson requires a much more significant and effective response. Jacob Rees Mogg informed Parliament in November 2021 that when the Committee on Standards had discussed Owen Paterson, by the third meeting of the Committee only 50% of Members had attended all 3 meetings, and 4 of the 11 Members who attended that meeting had not even been present when Owen Paterson gave his testimony to the Committee. As if that was not bad enough some of the Members of the Committee were not present at this final decision-making meeting, where the future of an MP hung in the balance, which, as pointed out by Sir William Cash on the same day in Parliament, left the lay members of the Committee in the majority. This is an astonishing way for such far reaching Committee decisions to be made, particularly as such decisions can result in the ending of formerly unblemished Parliamentary careers, and the destruction of reputations; it can also result in giving opposition Parties and the media the opportunity to add further insult to tragic injury, as has clearly been the case with Owen Paterson. It is abundantly clear that the current Committee on Standards lacks adequate self-awareness of the failings of the way the Committee has recently been run, which is extremely worrying. Finally, there is great concern overall that the lack of an independent appeal mechanism over the findings of the Commissioner on Standards results in Members of Parliament having less rights than members of the public who have cases made against them in other workplaces and professions. This is a very significant concern.

d) Paragraph 58: There is a recommendation by the Committee to extend the power of the Commissioner into areas of freedom of speech, in Parliament, in a Committee and a division lobby. The same problems could result as above, and how could any "unreasonable or excessive personal attack" be defined? There is too much potential for dangerous bias and contentious party political bias when a single person has the power to make first-instance decisions, even if there was an overall controlling Committee, particularly if the Committee was not overseen by an independent appeals system. I am sure others will criticise this aspect of freedom of speech from greater knowledge than mine. To my mind freedom to speak frankly cannot be lost in the important process of trying to improve standards in Parliament. And more power should not be given to a single unelected person (in this case it is suggested to be the Commissioner on Standards.) A newspaper article on this subject by Camilla Tominey in the Telegraph on 4/12/21 may be useful reference on the wider considerations of such changes to the power of the Commissioner on Standards.

e) Paragraph 243: There is no clear recommendation by the Committee to seek an external appeal system to its own recommended sanctions on a Member of Parliament. This was a major flaw in the case of Owen Paterson, and resulted in confusion in Parliament as to how to deal with the

questionable process and sanction recommendations of the Committee on Standards in his case. It is noted that 4 possible ways of dealing with this problem are suggested now by the Committee, one of which is the very unsatisfactory status quo. The status quo must not be allowed to prevail. An independent appeal mechanism needs to be instigated against the Committee findings where appropriate in order to ensure fairness and natural justice, and it seems only sensible that the Appeal conclusions should be brought back to Parliament for final consideration.

f) Paragraph 164 and 165: The serious wrong exemption (or the substantial injustice exemption) needs to be clarified much more clearly than currently, because this area was the central disagreement in the case of Owen Paterson. The Committee on Standards report into Owen Paterson stated that at the heart of this case there was a disagreement over the Commissioner's judgment as to whether Mr Paterson's approaches could be considered to fall under the serious wrong exemption or be considered to be banned paid advocacy. The points 1-4 now presented by the Committee to overcome this problem may not have overcome the problem before, because they are again open to matters of opinion as to whether they have been met or not. It should not rest on a matter of interpretation or judgement of a single person. The fact that the Commissioner did not accept that Owen Paterson was properly using the serious wrong exemption to whistleblow on matters of safety in food and milk production (in which his activities had manifestly and directly resulted in important safety improvements and saved lives), and that his 17 authoritative corroborative witnesses on this score were not interviewed and cross-examined to get to the bottom of the matter, is clearly of great concern. How or why the Commissioner came to the conclusion she did when the views of Owen Paterson and his lawyers and 17 witnesses pointed towards the reverse conclusion we will never fully understand, but it may be something inherent in the personal way in which different people can make interpretations and judgements. The fact that the Commissioner's conclusion was central to the case against Owen Paterson is significant, and would her views have been different if an Investigatory Panel had been instigated? If the 17 authoritative corroborative witnesses had been fully assessed and cross-examined with expert legal help, so that the Commissioner had heard the way the witnesses would speak and convey in person about what had actually occurred, would doubts have entered her mind about her early conclusions? We shall never know. When the Commissioner did not set up an Investigatory Panel, the Committee could have required her to do so, as was its right. But it also signally failed to do so. It should also be mentioned that Owen Paterson had used 3 very limited "serious harm/substantial injustice exemptions" as examples as an MP, and this could surely not be considered in any way to be using a wide loophole. That a wide loophole should not be allowed is not questioned, I simply query what the interpretation is of what is or is not a wide loophole. If a number was put on the examples which could be used it could clearly restrict the opportunity of MP's to whistleblow on all relevant matters of civic safety, potentially to the great detriment of the safety of members of the public. It must surely be that whistleblowing on matters of public harm should be encouraged and not discouraged in appropriately important circumstances. Owen Paterson claimed lives were at risk when he was seeking safety in food and milk (and actually achieved these aims, as he and his authoritative witnesses clearly demonstrated) but despite this he was recommended for punishment by the Committee on Standards. This disastrous outcome as experienced by Owen Paterson could result in other Members of Parliament being put off doing what they consider to be equally important and morally necessary acts of civic duty in the future. Surely alerting the relevant people and organisations about matters where lives could be lost or saved, and related industries could be devastated, should be considered as not just allowable but to be actively encouraged. The new "safe harbour" recommended in Paragraph 167, which would be enabled when Members consult the Registrar or relevant officers on such matters, seems a sensible addition to the Code of Conduct in order to try to avoid the situation in the future where a Member could conceivably be punished for life-saving and industry-saving acts. However it must be clear as fact (not opinion) what is or is not a serious wrong or substantial injustice for a "safe harbour" to have any value, and that a decision on

any cases arising must not be made by a single person such as the Commissioner on Standards, where serious disputes arise. (The same should apply to the constituency interest exemption.) In addition it seems essential to me that where a Member seeks to maintain their innocence and tries to clear their name it should not be counted against them as an aggravating factor when deciding on punishment: astonishingly in the case of Owen Paterson his attempt to clear his name by questioning the views of the Commissioner on Standards was actually considered an aggravating factor. This seems very unfair and unjust. The system of standards must not lead to plea bargaining, as this cannot be considered an acceptable procedure when a Member of Parliament is seeking to clear their name.

g) Paragraph 169: The clarification should be made that the meaning of the word "initiating" is the first contact made on a subject, and that subsequent follow-up actions are "participating" on the earlier "initiating" action. The two types of action should be dealt with in a different way when considering whether some action is or is not banned paid advocacy; and the difference between them should not be blurred by interpretation and opinion. This matter was a clear difference of opinion between the Standards Commissioner and Owen Paterson with legal advice in his case, and it clearly had a bearing on her judgment that in her view he was guilty of paid advocacy. I believe that the Standards Commissioner should not be allowed to make decisions on her own in the future in this respect.

h) Paragraph 168: There is a recommendation by the Committee that there should be a written contract on paid outside interests which makes it explicit that this cannot include lobbying Ministers, Members or public officials by Members of Parliament. If this matter of a written contract is to be pursued, then the "serious wrong" and "substantial injustice" and "constituency interest" exemptions as regards paid lobbying must be covered in the contract, as should reference to the "safe harbour" provision if adopted, so that everyone understands where they stand. Otherwise the revised Codes of Conduct as regards these issues would be contradictory with one another.

7) I hope this information is helpful, based as it is on being outside the Parliamentary system and being an ordinary member of the public. I wish you well with gathering information to improve the current Standards system in Parliament and I hope my contributions and those of others will help to ensure that there should be no more tragedies like the one which happened to Owen Paterson and his family. Not only has this family lost a family member, when she took her own life, but also an experienced, hard working and positive Member of Parliament has resigned, knowing that he could not achieve justice in the current situation, and still maintaining his innocence; and his formerly unblemished reputation of 24 years in Parliament has been destroyed in the process of the Parliamentary consideration of his case, which has been further exacerbated by the way the mainstream media has presented the issues. Whatever your views on the rights or wrongs of this case, the assessment of whether Standards in Parliament have been carried out correctly cannot be allowed to become a political football in the future and cannot be allowed to adversely affect our elected representatives to Parliament when they are trying to do their best to achieve good outcomes for the population, particularly in a society which likes to consider itself civilised. In the future Members of Parliament must have the same rights as members of the public who have cases brought against them in other workplaces and professions, unlike at the present time.

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