



LORD PRESIDENT OF THE COUNCIL
LEADER OF THE HOUSE OF COMMONS
THE RT. HON. JACOB REES-MOGG M.P.



Chris Bryant Esq. M.P.,
Chairman, Committee on Standards
House of Commons
London
SW1A 0AA

Our Ref: JRM/MP1164
15 March 2021

See Chris,

Standards Committee inquiry into the Code of Conduct for MPs

Thank you for your recent correspondence inviting me to contribute to the Committee's inquiry into the Code of Conduct. The Code sits at the centre of the House of Commons' conduct and disciplinary system and is key to our collective efforts to create a working culture founded on integrity and respect. I am therefore pleased to provide the attached written evidence, covering a number of questions posed by the inquiry. I would also be very happy to attend an evidence session with the Committee to discuss the inquiry. I have asked my office to liaise with the Committee's clerks to arrange a mutually convenient time.

The Committee will also have received a memorandum from the Government on specific questions raised by the Committee on the interplay between the MPs' Code of Conduct and the Ministerial Code.

As part of this inquiry, the Committee has undertaken to look at a couple of points that arose from your recent inquiry into sanctions, namely the disparity in the approach to apologies with regards to ICGS and non-ICGS cases, and the creation of a system of appeals for non-ICGS cases. I look forward to the outcome of your continued work in this area.

With every good wish,

Yours ever,

JRM

**Written evidence submitted by Lord President of the Council and
Leader of the House of Commons, the Rt. Hon. Jacob Rees-Mogg M.P.**

1. Values, attitudes and behaviours

What values, attitudes and behaviours should the Code of Conduct for MPs seek to encourage or discourage?

The Code of Conduct rightly sets out an expectation that MPs observe the general principles of conduct for public office holders identified by the Committee on Standards in Public Life in its First Report. In addition, the Code makes clear that Members are expected to observe the complementary principles of the Parliamentary Behaviour Code, including respect, professionalism, understanding others' perspectives and speaking out against unacceptable behaviour. The Government agrees that all figures in public life, including elected representatives, have a duty to conduct themselves to the highest standard and act in the public interest, as embodied in the Seven Principles of Public Life.

How successful is the current Code of Conduct in achieving these aims, and in what ways does it need to be changed to do so more effectively?

The Code of Conduct works in two principal ways: first, it establishes and communicates the standards and principles expected of Members; secondly it provides the rules of conduct that underpin those standards and against which behaviour can be judged. These two functions work in tandem to ensure public confidence in the standards expected of MPs and in the House's commitment to upholding them.

With regards to the Code's first purpose, the Government is of the view that the Code encourages and communicates the right values, attitudes and behaviours, making clear to all Members that, in performing their parliamentary duties, they are expected always to act in the public interest and with courtesy, professionalism and respect.

On the second purpose, the system of rules and adjudication of those rules is extensive and made up of a number of elements: the Parliamentary Commissioner for Standards, the Committee on Standards, the Independent Complaints and Grievance Scheme, the Independent Expert Panel and the House itself. Some of these elements are relatively new and time is needed to assess their operation and to see how the system as a whole coheres, but together they demonstrate a strong commitment to upholding the standards set by the Code. Ultimately, whether the Code is effective in ensuring MPs adhere to those standards is a matter for the electorate in each MP's constituency to judge.

Would it be helpful to customise the Nolan principles to make them more clearly applicable to MPs?

The Seven Principles of Public Life, often referred to as the “Nolan Principles” are a common set of standards that, after over 25 years of use, are firmly embedded and well understood across Parliament, Government and the wider public sector. I do not believe that it would be appropriate for Parliament to customise the principles, whose strength lies in part in their brevity and consistent application. Suggestions about changes to the principles would, in the first instance, be a matter for the Committee on Standards in Public Life, which advises the Prime Minister on arrangements for upholding ethical standards of conduct across public life in England, and which created the Principles and reviews their application.

How should the House’s commitment to tackle racism and discrimination be incorporated in the Code and should an “inclusion” principle be added to the Nolan Principles?

It is a mark of progress that this Parliament is more diverse than any previous one but the Government recognises that there is still more to be done to make Parliament inclusive, to improve its working culture and to ensure that discrimination has no place within it. Everyone working in Parliament deserves to be treated with dignity and respect. It is important that the Code of Conduct includes not just the principle of objectivity, which mandates against bias and discrimination, but specific references to upholding the general law against discrimination, as well as to the Behaviour Code and its principles of respect, professionalism, understanding others’ perspectives, courtesy and acceptance of responsibility.

As set out above, I do not believe it is appropriate to adapt the Nolan Principles and I believe the Code of Conduct already provides a robust framework in respect of discrimination. Notwithstanding, the Committee on Standards in Public Life is currently undertaking a broader review of the institutions, processes and structures in place to support high standards of conduct.

2. Consistency and overlap with other codes

How far is the Code of Conduct consistent with other codes that have effect within Parliament, that is, the Parliamentary Behaviour Code and the House of Lords Code of Conduct, and are changes to the Code needed to create greater consistency with the other codes

The House of Commons and the House of Lords have different memberships and different roles and it is for each House to develop a code of conduct that reflects that. As the elected chamber, the House of Commons has a distinct code of conduct system to assist Members in

the discharge of their obligations to the House, their constituents and the public at large. The Government considers it right that, whilst the codes of conduct of the two Houses are broadly similar, they reflect the differences between the Houses and that they remain a matter for each House to keep under review.

With regards to the Behaviour Code, as noted above, this is complementary to the Code of Conduct and we welcome that it is directly referenced in paragraph 9 of the Code.

What should be learned from the development of the Independent Complaints and Grievance Scheme (ICGS) and what can be done to ensure there is no confusion between the two systems operating side by side?

The Independent Complaints and Grievance Scheme, comprising the Behaviour Code, the Bullying and Harassment Policy and the Sexual Misconduct Policy, represents a commitment to improve the working culture in Parliament. It provides a single, separate channel for the handling of complaints about behaviour which may breach the codes relating to bullying and harassment. The Government welcomes the fact that the Code of Conduct was amended to reference the Behaviour Code, making it clear that Members are expected to observe its principles and creating an explicit link between the ICGS and the Code of Conduct.

Together, the Code and the ICGS form a critical framework for conduct in the House of Commons. Inevitably, the system is a complex one, reflecting the complex nature of Parliament. The recently concluded independent review of the ICGS, conducted by Alison Stanley CBE FCIPD, highlights that real progress has been made in embedding the ICGS but that there is still much to do, including simplifications to the scheme's processes. I am committed to doing what I can to support this work. Given the complex nature of the system, it is important that communications about both the ICGS scheme and the Code are communicated as clearly as possible.

In what ways does the Ministerial Code complement or undermine the Code of Conduct?

As set out in separate written evidence submitted to the Committee by the Government, the ministerial role is constitutionally distinct to that of either an MP or a peer and it is therefore right that a Minister abides by two separate codes of conduct in performing these two roles. It is the Government's view that the Ministerial Code complements the Code of Conduct.

Ministers hold office by virtue of retaining the confidence of the Prime Minister, who is responsible for advising the Sovereign on the appointment and dismissal of Ministers. The Ministerial Code sets out the standards of behaviour expected by the Prime Minister. The Prime Minister is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards.

3. Administration of rules and sanctions

Should an internal system of appeals against sanctions in non-ICGS cases be set up?

As I have set out in correspondence on the Committee's report on sanctions, the right to an appeal is a fundamental one and I would support the creation of an appeals system for MPs who are subject to a sanction in a non-ICGS case. The Government has welcomed the creation of the Independent Expert Panel so that it can provide an appeals mechanism for those subject to an ICGS ruling; it is appropriate that a parallel system should exist for other sanctions. I look forward to the Standards Committee's consideration of how such a process might operate. I would also like to take this opportunity to highlight that there cannot be an appeal against a decision of the whole House.

Should all responsibility for adjudicating individual cases be transferred to the IEP, and the Standards and Privileges Committee be recombined, consisting of only MPs, to oversee the standards system and review the Code.

I welcome the fact that the Committee is thinking ahead to how the House of Commons' conduct system can continue to evolve. The Independent Expert Panel is only recently constituted, with its first appointments made in November 2020. I have every confidence that the Panel will be a highly effective and trusted body but I would recommend that it is given time—of at least a year—to establish itself and make a substantial start with its remit of consideration of ICGS cases before thought is given to the merits of expanding its role.

Should other House of Commons rules, such as use of stationery, be brought within the Code of Conduct?

A clear set of rules is in place with regards to the use of stationery. MPs who break the rules can be referred to the Parliamentary Commissioner for Standards and the system seems to function effectively. In principle, I can see the merit of having all rules under a single code but I note that the Code of Conduct is already lengthy and its focus is rightly on the core principles MPs must uphold and the substantial rules relating financial interests and lobbying. It is worth considering whether adding detailed guidance on the use of postage-paid envelopes and stationery may alter the tone and balance of the Code of Conduct.

How should the relationship between principles (not investigable) and rules (investigable) within the Code be regulated?

The principles and the rules complement one another and I do not consider that action is needed to regulate or codify the relationship between the two. In particular, there are risks associated with making the principles themselves investigable given their nature. Their breadth would both make it hard to establish a clear framework against which to judge and create a risk of inviting vexatious and unfounded complaints. Ultimately, it is for each MP to apply the principles to their wider behaviour whilst ensuring that their individual actions are within the rules covering specific aspects of conduct.

Should the existing “exclusions” be maintained? i.e. matters the Parliamentary Commissioner is not allowed to investigate

I consider that the areas that are beyond the jurisdiction of the Parliamentary Commissioner remain valid ones. The Code of Conduct identifies that matters of policy, a Member’s views or opinions and a Member’s handling of or decision about, a case (whether or not anyone involved is a constituent of the Member) are beyond the remit of the Parliamentary Commissioner for Standards. I think it is right these matters are left to the electorate to judge at the ballot box.

The other areas not covered by the Parliamentary Commissioner are excluded because they rightly fall to another body or individual to adjudicate. For example, it is appropriate that the Speaker of the House of Commons presides over what happens in the Chamber; the Independent Parliamentary Standards Authority handles complaints relating to MPs’ expenses; that alleged breaches of the Ministerial Code are matters for the Prime Minister (supported as appropriate by the Cabinet Office or the Independent Adviser on Ministers Interests), and that allegations of criminal misconduct are normally a matter for the police.

4. *Communication*

How can the Code of Conduct be better communicated to MPs?

Like others in similar positions in the House of Commons, I am committed to communicating the principles and rules set out in the Code of Conduct and to encouraging Members to take up the training offered to MPs. I am interested to hear the Committee’s views on what more needs to be done and how I and others can support it.