

Written evidence submitted by Thangam Debbonaire MP, Shadow Leader of the House of Commons

Response to the Standards Committee's consultation on changes to the Code of Conduct

I am responding to the Committee on Standards report, *Review of the Code of Conduct: proposals for consultation*, that was published in November 2021.

I'm writing this response in my capacity as Shadow Leader of the House of Commons, from my observations and experience in this role, and whilst I have consulted and heard from my colleagues in the Labour Party. However, as Parliamentary Standards are a House matter, and therefore are not whipped, this is my individual response and is not the view of the Labour Party as a whole.

There are several recommendations within the report that are welcome, such as increasing clarity of the rules, increasing training and ensuring the independence of the Standards Commissioner and Standards Committee is maintained. There are also some recommendations that require further clarity or explanation, such as around changes to the appeals process and introducing a new principle of 'respect'. This submission deals with the areas that I either strongly support or that I believe need additional explanation or exploration in the next stages of this review.

Context

There are currently several different codes of conduct that MPs must abide by. Greater clarity of the rules and where responsibility sits is needed.

Alongside this there has been the recent extraordinary circumstances surrounding the House's approval of the Standards Committee report into and sanction on the former MP for North Shropshire, which has brought the Standards code of conduct, the Standards Commissioner and the Standards Committee in the House of Commons into sharp focus.

I'm pleased that the Committee has done such thorough work and that there will now be further work, including a judge-led review.

Introducing a clear ban on paid consultancy and parliamentary lobbying jobs

This is a key feature of this report and recommendations. Clearer, stronger rules on outside lobbying interests have been recommended by the Committee on Standards in Public Life (CSPL) for several years and there appeared to be an emerging consensus to introduce this following the Owen Paterson case. Such roles introduce a lack of clarity or a perception of lack of clarity about whether and when a Member is working in the interests of the company paying them to lobby and influence Parliament and government.

The recommendations to replace the current wording around the rules on 'paid advocacy' and introducing a ban on Members providing paid parliamentary advice, consultancy or strategy services, using the same wording as the House of Lords are vitally important. Banning MPs from undertaking any parliamentary consultancy, advice or strategy work would dispel any public perception that MPs are 'for hire' and would help to prevent any more 'cash for access' scandals.

Clarifying the criteria of the serious wrong exemption in the lobbying rules would also be valuable. This would ensure clarity for both MPs and the public and would be a welcome first step in restoring public trust in politicians.

Increasing clarity to and knowledge of rules and responsibilities

As the report recommends, this can be done through increased training and engagement by Members' Services with MPs and their offices during the Parliamentary term, rather than just immediately after General Elections, when new Members are often overwhelmed with information.

Increasing the work between the House's procedural offices, the Parliamentary Digital Services and the Printing and Publication Unit to publish ad hoc declarations, and to provide hyperlinks to such declarations or the relevant register entry when a declaration is made on House business papers would also help to increase the visibility of the Register of Members' Financial Interests and improve transparency and accountability.

Alongside this, the recommendation to amend the Code of Conduct to introduce a 'safe harbour' provision whereby a Member cannot be found in breach of the rules if they have sought and followed the advice of the Registrar would reinforce the principle that Parliamentary standards and the standards commissioner are there to drive best practice rather than a belief that they are there to catch Members out.

The recommendation to amend the current rule in the Code of Conduct on lobbying the Committee so that "Members must not lobby members of the Committee on Standards, the IEP, the Commissioner, or their staff, in a manner calculated or intended to influence their consideration of a breach or a sanction" is also very welcome. This will help to ensure that the system remains independent and unaffected by external political pressures.

Appeals Process

The way that the current standards system is structured means that there is a de facto appeals process. The Standards Committee assesses and decides whether the Standards Commissioner's recommendations are proportional and appropriate, and the Committee are not bound by the Commissioner's advice.

At every stage, the Member under investigation can provide any evidence that they think offers mitigation and is welcome to seek legal advice. There is also a provision under the House of Commons Standing Order 150 which allows for the Commissioner to appoint a 'investigatory panel', which would include a 'legal assessor', but this has never been used.

The Standards process differs from the ICGS process which includes a provision for formal appeals, however ICGS decisions are not subject to debate or amendment in the House, which is different from Standards motions.

The report does outline all the available options for changes to the appeals process, including sticking with the current system. However, I note that the Committee does not offer a conclusion on what the best approach would be. The appeals process is currently within the scope of the forthcoming separate judge-led review. I look forward to seeing what this review suggests to change the appeals process and will consider any recommendations carefully.

However, regardless of any recommendations from the judge-led review, it is crucial that there is greater clarity and understanding of the standards process and to emphasise the appeals process

that is currently in existence, both through changing the language used to describe the system and through additional training for MPs.

The Speaker referring MPs

Introducing an option for the Speaker 'to refer a matter of conduct in the Chamber or in a Committee to the Commissioner for investigation', may also pose issues. The Speaker, or their deputies, have responsibility for ensuring that conduct in the Chamber is carried out respectfully and properly, and, in Committee, for the Panel of Chairs acting under the Speaker's authority.

The introduction of this proposal could therefore lead to a doubling up of enforcement and could also lead to the unintended consequence that the Speaker's authority in the Chamber is diminished, as the Commissioner, rather than the Speaker, would be the arbiter of Parliamentary proceedings. It could also lead to MPs lobbying the Speaker to refer issues to the Commissioner for political purposes rather than rule breaches.

The principle of 'respect'

The report recommends adding the principle of 'respect' to the Nolan principles of public life, that apply to MPs. I have noted concerns amongst colleagues around this and how it would be enforced. The Commissioner also already deals with vast numbers of complaints from the public and introducing a formal principle of respect could dramatically increase the amount of vexatious or inappropriate complaints that are politically or personally motivated that the Commissioner must deal with. I note from the debate in the House of Commons on Thursday 3rd February on the Committee's recommendations that the Chair mentioned the possibility of this being amended to 'respectful behaviour' instead. I believe further work is needed to expand on this.

Interaction of the Members' Code of Conduct with the Ministerial Code

Any changes that are introduced to strengthen the Members' Code of Conduct are enormously important. They must go hand in hand with greater enforcement of the Ministerial Code so that there are not unequal or additional responsibilities on backbenchers than there are on Ministers. This will ensure that there is clarity and consistency for standards in public life for all Members.

The Code of Conduct should also provide greater clarity for Members on what donations, gifts or hospitality should be declared, as the current wording does has caused confusion about what declarations need to be made, and where they should be made. Alongside this, the Register of Members' Financial Interests should be made clearer and more accessible for the public to see registrations. Ministers should also be required to publish their financial declarations in the same place as Members who are not Ministers, as the present exemption means that the rules are virtually unenforceable in relation to Ministers and as a result, they are subject to less transparency than other MPs. It will also ensure that all declarations are kept in the same place to ensure maximum transparency.

Conclusion

The vast majority of MPs follow the rules diligently. However, recent events damaged public trust in Parliament. All measures taken to strengthen the Members' Code of Conduct will be a welcome first step in restoring trust in our democracy and ensuring that MP's adhere to and commit to the highest level of standards in public life.

9 February 2022