

**PARLIAMENTARY STANDARDS**

**Guidance For Members Who Are The Subject of a Complaint**

1. This note is intended to help Members of Parliament who are the subject of a complaint that they have breached either the Code of Conduct or the Rules relating to the conduct of Members approved by the House of Commons.
2. The text of the Code and Guide to the Rules for Members is available on request from the Vote Office, the Library of the House or from the office of the Parliamentary Commissioner for Standards. It may also be studied at:  
[www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm)
3. The Register of Members' Interests is published annually. Updated versions of the Register are made publicly available in-year: the most recent updated version of the Register may be studied in the main Committee Office and is also available on the internet at: [www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm) It may also be obtained from the Library.
4. If you require advice or help at any point about matters relating to the Code or the Register or to a complaint, please do not hesitate to contact the office of the Parliamentary Commissioner for Standards (telephone 020 7219 0311).

**What will happen if a complaint is made against you**

5. Under Standing Order No 150, the Parliamentary Commissioner for Standards (the Commissioner) is responsible for the investigation of complaints against Members and

for reporting on them to the Committee on Standards and Privileges (the Committee).

6. On receiving a complaint against a Member (which must be in writing from a named complainant) the Commissioner will first consider whether:
  - it is appropriate for him to consider
  - there is sufficient supporting evidence to justify at least a preliminary enquiry.
  
7. The Commissioner will look into alleged breaches of the Code or the Rules. He will not consider complaints about:
  - policy matters, including your views or opinions on them
  - your decisions on how to handle a constituent's case
  - the funding of political parties
  - alleged breaches of the separate code governing the conduct of Government Ministers as Ministers
  - what you have done in your purely private and personal life.
  
8. The Commissioner also reserves the right to reject at this stage complaints which appear to him to be clearly trivial or vexatious, or which substantially repeat matters which have already been considered. (If he rejects a complaint at this stage, the Commissioner will tell the complainant why. When doing so, he will normally only inform you of his action if it is clear to him that you are already aware of the complaint.)

### **The Complaints Investigation Process**

9. A full description of this process is contained in a separate note which may be obtained on request from the Commissioner's office or be studied at:  
[www.parliament.uk/about\\_commons/pcfs.cfm](http://www.parliament.uk/about_commons/pcfs.cfm) The process is intended to be fair to all concerned and has been drawn up by the Committee and the Commissioner bearing in mind the recommendations of the Joint Committee on Parliamentary Privilege (HC (1998-99) 214) and of the Eighth Report of the Committee on Standards in Public Life (Cm 5663).

### **Preliminary Inquiry**

10. If the Commissioner decides that a complaint warrants at least a preliminary inquiry, he will notify the Member concerned of its receipt. After seeking any necessary supplementary evidence from the complainant, he will tell the Member of the nature of the allegation and of the evidence submitted in its support, making clear in what respects the behaviour complained of would, if proved, constitute in his view a contravention of the Code or Guide.
11. The Commissioner will ask for the Member's response (preferably in writing). What is asked of the Member is to give a full and truthful account of the matters which have given rise to the complaint: there is no question of them being required to prove their innocence.
12. The Commissioner may interview and put questions to the Member at this stage, and will always see the Member if the Member so requests. When interviewing the Member, the Commissioner will either record the conversation (with the Member's agreement) or make a record of it, subsequently clearing the transcript or record with the Member to ensure its accuracy.
13. In many cases the information provided by the Member will enable the Commissioner to resolve the complaint at this point. In other cases, the Commissioner may seek further evidence, from the Member or others, in order to enable him to make a preliminary assessment. Having made his assessment, the Commissioner may decide:
  - not to uphold the complaint, or
  - that though upheld, the complaint is of such a minor nature (or happened inadvertently) as to make action appropriate under the rectification procedure described in the annex to this note.
14. If he decides on one of these courses of action (and, in the case of rectification, the Member takes the necessary steps to rectify the matter), the Commissioner will inform both the complainant and the Member and make a brief report on the outcome to the Committee.

### **Full Investigation**

15. If the preliminary inquiry suggests that there is a case to answer, the Commissioner will undertake a full investigation before reporting to the Committee. This may involve him taking further evidence from the Member, the complainant or others, or seeking relevant documentary or other material from parliamentary sources, other public or private bodies, or individuals.

### **Your Rights and Duties during an Investigation**

16. The Commissioner will keep the Member informed in general terms from time to time of the progress of his investigation.
17. Whilst the Commissioner has no power to compel the production of documents or witnesses, the Committee has made clear its expectation that Members will at all times cooperate fully and frankly with the Commissioner. The Committee may also exercise its power to summon persons, papers and records, either independently or at the Commissioner's request.
18. A Member has the right at any time to draw to the attention of the Commissioner evidence or the names of witnesses which he or she believes to be material to the consideration of a complaint.
19. Except where an Investigatory Panel has been appointed (see paragraph 26-28), the Member does not have the right to cross-examine directly witnesses who may have given evidence in support of the complaint. However the Commissioner will put to the Member all material evidence in support of the complaint which is at variance with the Member's account of events, so that the Member may have an opportunity to challenge it if he or she so wishes.
20. If the knowledge that a complaint has been made is already in the public domain, the Commissioner may confirm, in response to enquiries, that he has received a complaint or, at a later stage, that he has submitted a report on it to the Committee. In doing so, he will make clear that the fact that a complaint has been made does not necessarily mean that the Member has done anything wrong. He will also explain the complaints process as requested. However the Commissioner will not at any time discuss the details

of a complaint or its investigation with third parties.

### **Legal Advice and Representation**

21. Members may, at their own expense, take legal advice on a complaint if they so wish and be assisted by such advice in responding to the Commissioner. However, the Commissioner will expect Members to respond to his enquiries (whether orally or in writing) for themselves. Members may, if they so wish, be accompanied by a lawyer or an adviser at meetings with the Commissioner.

### **Parliamentary Privilege**

22. A complaint is not regarded as covered by parliamentary privilege until it has been accepted by the Commissioner as appropriate for at least a preliminary inquiry. Evidence supplied to an inquiry or investigation, and any related correspondence, is covered by parliamentary privilege. It also remains confidential unless and until it is published by the Standards and Privileges Committee. If such evidence or correspondence were published or disclosed to anyone else without the Committee's agreement, that would be a contempt of the House. Any other material which is made public is not covered by parliamentary privilege and would be unlikely to attract privilege at common law. Any attempt to obstruct an inquiry may also be treated as a contempt.

### **Standard of Proof**

23. In weighing the evidence, the Commissioner and the Committee apply as a minimum the test whether a matter is established on the balance of probabilities, although in cases where the alleged offence is more serious a higher standard of proof is required.

### **The Commissioner's Report**

24. The role of the Commissioner as an investigator is to report the facts as he has found them and, wherever possible, offer his own conclusion on whether the Code has been breached. Accordingly, when the Commissioner has completed his inquiry, he prepares a report to the Committee. Before reaching his conclusions, he shares with the Member the draft of those parts of the report dealing with issues of fact so that the Member has an

opportunity to comment on them.

25. The Commissioner will include in his report the Member's version of events and views, both in the body of the report and as annexes. Any evidence which a Member supplies can therefore be expected to become public, although the Committee is normally sympathetic to requests for the deletion of confidential and personal information where it can protect privacy without jeopardising the public interest in knowing the facts on which the Committee has based its conclusions.

### **Investigatory Panel**

26. In any case in which, despite the Commissioner's attempts to resolve them with the Member, there remain significant contested issues of fact, the Commissioner may set up an Investigatory Panel under the provisions of Standing Order 150 (2B) of the House. He must do this when so requested by the Committee. Such a Panel consists of the Commissioner, as Chairman, and two assessors, one of them legally qualified (appointed by the Commissioner) and the other a Member (not a member of the Committee on Standards and Privileges) appointed by the Speaker.
27. The Panel meets in private and its procedures are determined by the Commissioner. The Member who is the subject of the complaint shall, if he or she so requests, be heard by the Panel; may call witnesses; and may examine other witnesses. The Panel, or Counsel on its behalf, may also question witnesses.
28. When the Panel has completed its proceedings, the Commissioner prepares a report (or further report) to the Committee setting out the facts of the case as now established and expressing an opinion on whether the Code has been breached. The legal assessor to the Panel is required to give the Committee his or her opinion as to the extent to which its proceedings have been consistent with the principles of natural justice and the Member assessor may report to the Committee his or her opinion as to the extent to which its proceedings have had regard to the customs and practice of the House and its Members.

### **The Committee on Standards and Privileges**

29. The Commissioner informs the Member (and the complainant) when he has submitted his report to the Committee on Standards and Privileges. The Clerk of the Committee lets the Member concerned have a copy of the Commissioner's report shortly before the Committee first meets to consider the report. The Member thus has opportunity, if he or she so wishes, to let the Committee have any written comments on the full report. The Committee expects that any such comments will focus on the Commissioner's conclusions, as any dispute about facts should have been addressed in earlier exchanges between the Member and the Commissioner or through the mechanism of an Investigatory Panel. In serious cases the Committee will always give the Member an opportunity to be heard before recommending the imposition of a penalty, but it is able to deal with most of the cases which come before it without taking oral evidence from the Member. In the last resort the Committee may (see SO 149 (6)) require a Member to attend and to produce any documents it requires.
30. A Member appearing before the Committee may be accompanied by an adviser such as a solicitor. The role of the adviser is to give advice to the Member about how to answer the questions put to him or her and to help him or her with any papers to which he or she may wish to refer. The adviser may not answer questions on behalf of the Member and may not address the Committee unless he or she is asked a question by a member of the Committee. The Committee does not hear counsel.
31. If the Member wishes the Committee to hear specified witnesses, or wishes the Committee to put specified questions to witnesses, he or she should make representations to the Committee which it will consider.
32. The Committee decides whether evidence is to be taken in public or in private. Its normal practice is to take evidence in private. The Committee is empowered to refuse leave for the broadcasting of any public session. It always deliberates in private.
33. The Committee has made clear that it would regard it as entirely unacceptable to be lobbied, individually or collectively, by a Member – or indeed anyone else – with the intention of influencing its view of a case.
34. The Clerk of the Committee informs the Member and the complainant as soon as the

Committee has decided to publish a report, and provides each of them with an embargoed copy of the report an hour before publication. The report includes, as appendices, the Commissioner's memorandum and supporting evidence and any additional evidence assembled by the Committee. Any material submitted to the Committee by the Member is normally published, but the Committee is sympathetic to requests for the deletion of confidential and personal information where it can protect privacy without jeopardising the public interest in seeing the evidence on which it has based its findings.

35. If the Committee finds the complaint upheld, it may recommend that the Member make a public apology to the House. In more serious cases it may recommend to the House that a penalty be imposed, which may involve either withholding a Member's salary for a specified period without suspending the Member or the suspension of the Member (with loss of salary) for a specified period. In the most exceptional cases the Committee could recommend the expulsion of the Member. A recommendation that the Member should have his or her salary withheld, be suspended or expelled must be debated and approved by the House. The Member will normally be informed privately by his or her Whips of the timing of the debate before the formal announcement is made.

**Parliamentary Commissioner for Standards**

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### The Rectification Procedure

In the case of admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has discretion to allow the Member concerned to rectify the matter. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House, either by means of a point of order or of an intervention in a relevant debate.

A late entry in the Register will be printed in bold italics and asterisked to a footnote. \* The footnote will read: “*entry added or amended in [insert date], under the rectification procedure*”

The footnote will be cross-referred to the page at the beginning of the Register where the rectification procedure will be briefly explained.

The corrected entry will remain in bold italics for 12 months from its first appearing and will also appear in one annual printed Register.

The entry itself in standard form will stay in so long as it is relevant if related to a continuing benefit.

The decision on whether the use of the rectification procedure is appropriate in any case is a matter for the Commissioner, who has discretion to dispose of such cases without first bringing them before the Committee on Standards and Privileges. Nonetheless, in any case in which the procedure is used, the Commissioner reports its use briefly to the Committee. He also informs the complainant of the outcome.

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