



Parliamentary Commissioner for Standards

PCS / AN / 2023.05 (Rev.1)

MPs Writing to Judges

Summary: MPs should not generally write to judges. Letters from MPs will generally appear as attempts to interfere with legal proceedings, which is a breach of the separation of powers. MPs can provide character references in cases in the same way as anyone else.

General principle

1. The separation of powers is a fundamental constitutional principle in accordance with which it is for Parliament to make laws and to hold the Executive to account, for the Executive to govern in accordance with the law, and for the Judiciary to apply and interpret the law independently of the Executive and Parliament.

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2. Accordingly, an MP should not write to a judge in terms that might appear to be using their status as an MP to attempt to interfere with the process of justice or with judicial independence.
3. This would include, in particular, writing to judges—
 - (a) asking them to consider specified matters in relation to proceedings before them;
 - (b) asking them to accelerate proceedings; or
 - (c) complaining or making observations about timing, listing or other administrative matters in connection with proceedings.
4. Including a disclaimer to the effect that the Member does not wish to interfere with the process of justice does not make a letter acceptable where no other purpose could reasonably be assigned to it.
5. In essence, any letter from an MP relating to a case is likely to appear to be an attempt to influence the judge and is to be avoided (subject to the section on character references below).
6. A letter to one judge relating to proceedings being heard by another is as objectionable as a letter sent to the judge hearing the case.



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Character references

7. A party to criminal proceedings, or their legal advisers, may seek letters by way of character evidence, commonly to be used in mitigation on consideration of sentencing following conviction.
8. If a Member knows a person to be of good character, or knows anything about the character of the person that is likely to be helpful to the court, it is both proper and desirable for them to write.
9. If their knowledge of the person has been acquired in a personal capacity, they should write on their own personal note paper.
10. If the knowledge has been acquired in the course of their duties as a Member, they can write on portcullis-headed House of Commons notepaper.

Treatment of letters

11. The Lord Chief Justice has provided guidance to the judiciary and court staff about correspondence from MPs.



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12. His guidance includes the following observations—

“As part of the separation of powers, MPs should not seek to influence legal proceedings by writing to a judge on behalf of a constituent. This is because judges are required to act with independence and determine issues that come before them on their intrinsic merits, unaffected by personal opinions or external pressure.

“However, MPs do still write to judges in such ways from time to time. A judge receiving such a letter (and who does not make it public) could be at risk of giving an appearance of bias if the fact of receipt later comes to light. Any such correspondence should be forwarded to the Lord Chief Justice’s office.

“It is for the individual judge to determine how best to deal with such correspondence as part of proceedings; however, the following approach has often been adopted:

- (i) have the correspondence circulated to all parties;
- (ii) make it clear in open court that such correspondence has not in any way influenced the court; and
- (iii) invite brief comments from all parties before continuing with proceedings.”

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13. Character references, and other letters which for one reason or another an MP considers can properly be sent to a court in connection with proceedings, should always be sent to the relevant party's legal representatives to be handled in the normal way. If the relevant party is unrepresented, a letter should be given to them to deploy in such manner as the court staff direct.

Supplemental

14. For the purposes of the issues discussed in this note, tribunals should be treated as courts, and tribunal judges are judges.

15. For the purposes of the issues discussed in this note, coroners are independent judicial officers and should be treated as judges, and their offices and officers should be treated as courts and court staff.

16. A letter that should not be sent to a judge, should not be sent to court staff (who are responsible to the judges).

17. General concerns about the administration of justice should be directed to the Ministry of Justice (at Ministerial or official level).

Incidental

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18. This Advice Note is provided to Members in accordance with Standing Order No. 150¹.
19. The Judicial Office has been consulted in the preparation of this Note.
20. The purpose of this Advice Note is to assist Members in considering and applying the Code of Conduct for Members of Parliament; it is designed to supplement, and not supersede or contradict, specific provisions of the Code. Where specific or formal advice for a particular situation is required, I will be happy to provide it in accordance with the Guide to the Rules relating to the Conduct of Members (“the Guide”).
21. I am sending this Advice Note to: the Chair and Members of, and the Clerk to, the Committee on Standards; Mr Speaker; the Leader of the House; the Shadow Leader of the House; the Clerk of the House; the Clerk of the Journals; Counsel to Mr Speaker; the Registrar of Members’ Financial Interests; and the Judicial Office. It will also be placed on my webpage on the House of Commons website.

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¹ This Note consolidates lessons learned from the cases of interference with the judicial process reported in the Standards Committee’s Second Report of Session 2021–22, and supplements paragraphs 65 to 77 of that Report.



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Revision Table

<i>Revision No.</i>	<i>Date</i>	<i>Changes made</i>
1	27 March 2023	Paragraph added on coroners as judges.

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