

PARLIAMENTARY STANDARDS

Description of the Complaints Investigation Process

1. Complaints, whether from a Member of Parliament or a member of the public, alleging that a Member of the House of Commons has breached the Code of Conduct or the Rules relating to the conduct of Members, should be addressed in writing to the Parliamentary Commissioner for Standards.
2. If the complainant is a Member of Parliament, it is a basic courtesy, which the House expects to be observed, that at the same time as writing to the Commissioner, the Member should copy their letter to the Member about whose conduct they are complaining. This should be done before anyone else is told of the complaint.
3. Under the Standing Orders of the House, it is the Commissioner's responsibility to receive, and if he thinks fit investigate, complaints of misconduct by a Member. The Commissioner reports his findings to the Committee on Standards and Privileges which in turn adjudicates the complaint and, if it thinks fit, recommends the imposition of a penalty to the House.

Initial Consideration

4. On receiving a complaint, the Commissioner will first consider whether it falls within his remit. This includes such matters as:
 - breaches of the Code of Conduct for Members of Parliament
 - failure to register or declare relevant financial interests or benefits, as required

by the Rules laid down by the House

- advocacy, where the Member has a relevant financial interest
- participation in delegations where the Member has a relevant financial interest.

5. The Commissioner's remit does not include such matters as:

- policy matters or a Member's views or opinions
- a Member's 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 Members do in their purely private and personal lives.

The House of Commons Committee on Standards and Privileges (the Committee) has also made it clear that it would expect the Commissioner to consult it before accepting for investigation a complaint against a former Member or one that goes back more than seven years.

6. The Commissioner will not consider anonymous complaints or those which are not supported by evidence sufficient to suggest that they merit at least preliminary inquiry. Nor will he consider complaints which appear to him clearly trivial or vexatious or which substantially repeat allegations which have already been the subject of inquiry (unless there is significant fresh evidence in their support).

7. If it appears to the Commissioner that a complaint may involve an allegation of criminal misconduct and may more appropriately be investigated by the police or another investigatory agency, he will advise the complainant to approach that agency.

8. In all cases in which he does not believe it appropriate for him to enquire into a matter (see paragraphs 5-6 above), the Commissioner will advise the complainant accordingly, where necessary pointing them towards a more appropriate agency or indicating that the matter cannot be pursued without further supportive evidence. (He will normally only inform the Member complained of if it is clear to him that the Member is already aware of the complaint.)

Preliminary Inquiry

9. Where it appears that an allegation has sufficient substance to warrant at least a preliminary inquiry, the Commissioner will inform the Member concerned of the nature of the allegation and the evidence offered in support of it, and seek a response. He will inform the Member at the earliest possible stage of the particular provisions of the Code or the Guide to the Rules which is alleged have been breached. The Member is not asked to prove his or her innocence. What is asked of the Member is a full and truthful account of the matters in question.
10. In many cases, the information provided in response by the Member (either in writing or in person to the Commissioner) may be sufficient to enable the Commissioner to consider the allegation and:
 - to dismiss the complaint, or
 - to agree remedial action with the Member under the rectification procedure (described in the Annex to this note), or
 - to submit a report to the Committee on Standards and Privileges.
11. If he dismisses the complaint, the Commissioner will inform the complainant and the Member concerned of his decision. If he believes that the complaint, though justified, is minor or, for example, the result of a genuine oversight which the Member concerned readily acknowledges, the Commissioner will seek to agree remedial action with the Member. That action being taken, the Commissioner will inform the complainant of the outcome. In all such cases, the Commissioner will report on the outcome to the Standards and Privileges Committee.
12. In some cases, it may be necessary for the Commissioner to seek further information or documentary evidence, either from the Member or others, before he can conclude his assessment of a complaint. Once he is able to make this assessment, the Commissioner may conclude that he should proceed along one of the lines indicated in paragraph 10 above. Alternatively, if the balance of the evidence assembled during the preliminary inquiry is unclear or the nature of the allegations particularly serious, he may conclude that a full investigation is required in order that he may report fully to the Committee on the complaint.

Full Investigation

13. In the course of a full investigation it may be necessary for the Commissioner to interview the Member who is the subject of the complaint, the complainant and other persons, and/or to seek relevant documentary or other evidence from the parliamentary authorities, other public or private bodies or from private individuals. Whilst the Commissioner has no power to compel the production of documents or witnesses, the Standards and Privileges Committee has indicated its expectation that Members will cooperate fully and frankly with the Commissioner. It has also indicated that it would exercise its power to send for persons, papers and records in support of the Commissioner if that proved to be necessary.
14. When approaching witnesses, the Commissioner's usual practice is to write informing them of the nature of the investigation and setting out the particular questions or matters where he is seeking assistance. It is always helpful if they respond in writing but the Commissioner will also offer the opportunity of an interview on the telephone or in person. If he interviews a witness, the Commissioner will always take a note of the interview or ask the witness if he may record what is being said. In either case he will afterwards ask the witness to confirm the accuracy of the record of the interview.
15. The Commissioner will keep the Member concerned informed in general terms from time to time of the progress of his enquiries.

Legal Advice

16. Complainants, Members complained against or witnesses may, if they so wish and at their own expense, take legal advice on any matter and be accompanied by a legal adviser (or other 'friend') at any meeting with the Commissioner. They will, however, be expected to answer for themselves (and not through their adviser) any questions put to them.

Parliamentary Privilege

17. A complaint is not regarded as covered by parliamentary privilege until it has been

accepted by the Commissioner as appropriate for inquiry. Evidence supplied to an inquiry, and any related correspondence, is covered by 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.

Assessing the Evidence

18. When the Commissioner believes he has obtained as complete a picture of the circumstances surrounding the complaint as possible, he assesses the evidence. In assessing the evidence and reaching a conclusion, the Commissioner requires at least that the allegation is proved on the balance of probabilities. In cases where the alleged offence is more serious, a higher standard of proof is appropriate.
19. If the Commissioner has uncovered any material evidence which is at variance with the Member's version of events, he will put this to the Member. This allows the Member to challenge the evidence. Before reaching his conclusions, the Commissioner will share with the Member the draft of those parts of his report dealing with issues of fact so that the Member has an opportunity to comment on them.
20. The Commissioner encourages a Member always to respond in writing so that he can submit the Member's views precisely to the Committee when making his report. As with witnesses, any evidence a Member supplies could become public, although 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 knowing the facts on which the Committee has based its conclusions.

Investigatory Panel

21. 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 (and if requested by the Committee, must) set up an Investigatory Panel under the provisions of Standing Order 150 (2B) of the House. 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.

22. 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.
23. When the Panel has completed its proceedings, the Commissioner prepares a report (or further reports) 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 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.

Reporting to the Committee

24. The Commissioner informs the Member when he has completed his report, and submits it to the Committee. 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.
25. 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, the Commissioner's report normally comprises a description of the complaint and of the relevant aspects of the Code or Rules; an account of the evidence; his finding of facts; and a conclusion, along with any relevant recommendation(s), for example for the amendment of procedures so as to help Members avoid pitfalls in future. The report includes as an appendix information

supplied by the Member and others, along with supporting documents, etc where these are relevant.

26. Taking into consideration any written submission from the Member, the Committee considers whether it agrees with the Commissioner's findings, and what action is appropriate. It may feel it needs further information and ask the Commissioner to obtain it. It may also decide to take evidence from the complainant, the Member and others before reaching its conclusion.
27. The decision as to whether evidence is to be taken in public or private is for the Committee. Its normal practice is to take evidence in private. It is empowered to refuse leave for the broadcasting of any public session. It always deliberates in private.
28. The Member complained of and the complainant are informed by the Committee Clerk when the Committee has decided to publish a report, and are provided with the printed Committee report one hour prior to publication. The Committee report includes the Commissioner's report. Wherever possible, witnesses are informed by the Commissioner of a report's impending publication.

Parliamentary Commissioner for Standards

September 2003

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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