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Summary

5 The allegation I investigated was that Mr Nick Smith MP had misused House-provided stationery when he sent a mailshot to a number of constituents explaining how they might contact him during the Dissolution of Parliament if they thought there was anything he might help them with during the General Election campaign.

10 I found that although it was within the rules for Members to use House-provided resources to disseminate factual information shortly before a General Election, the Member had gone further by referring to his intention to stand for re-election and by providing details of how he might be contacted if recipients thought he might be able to help them during the general election campaign period. This contravened the rules on the use of House-provided stationery, and that he had breached paragraph 15 of the Code of Conduct for Members which prohibits the use of publicly funded resources to confer undue advantage on a political party. I therefore
15 upheld the allegation.

The Member explained why he had not thought he was acting in breach of the rules and said that he had acted in good faith, which I accepted. He accepted my decision, apologised and agreed to refund to the House authorities the value of the misused stationery. I consider that to be an appropriate outcome to the investigation and
20 concluded my inquiry under the rectification procedure in accordance with Standing Order No 150.

Mr Nick Smith MP: Resolution letter

Letter from the Commissioner to Prof Nigel Copner, 14 September 2017

5 I wrote to you on 28 June 2017 to say that I was beginning an inquiry into your allegation of a misuse of House-provided stationery by Mr Nick Smith MP. I have now completed my work and am writing to let you know that I found that Mr Smith had breached the *Rules for the use of stationery and pre-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis*. That is a breach of paragraph 15 of the Code of Conduct for Members and I have, therefore, upheld your allegation.

10 My letter of 1 September 2017 to Mr Smith (item 9 in the written evidence pack enclosed) explains how I reached my decision. All the evidence relevant to the inquiry is provided.

15 Mr Smith told me that he acted "in good faith" and I accept that. He has acknowledged his breach of the rules, apologised and agreed to refund the value of the misused stationery. I consider that to be an appropriate outcome and the matter is now concluded, by way of the rectification procedure available to me under Standing Order No 150. I will notify the Committee on Standards in due course of this outcome.

14 September 2017

Written evidence

1. Letter from Prof Nigel J Copner to the Commissioner, 11 June 2017

5 Pursuant to a telephone conversation I had with one of your staff on Tuesday, 30 May 2017, I now enclose, as advised, the original letter and envelope,¹ which gave rise to our concern.

10 I, and others, feel that Nick Smith exploited his position as a sitting MP for Blaenau Gwent to misrepresent himself and that he used Parliamentary stationery, contrary to clear guidance and instructions, for campaigning purposes. We feel that he used facilities (paper, postage, envelopes, possibly databases, printing facilities, possibly staff time and effort, etc.), provided from the public purse for the pursuit of his duties as the elected member for Blaenau Gwent to pursue his own interests and personal gain.

I would be grateful if you could investigate this matter, and, if it is found that Nick Smith has been in breach of the guidance, to ensure that he is called to account.

15 *11 June 2017*

Enclosure: Letter from Mr Nick Smith MP to a [named] constituent, 26 April 2017

As you know, the General Election will be held on 8 June.

This session of Parliament will end on 3 May and so we will have no MPs until the new Parliament meets.

20 I am standing for re-election, and I just wanted to let you know how you can get in touch with me during the campaign if there is anything you think I may be able to help with:

[details redacted]

PS I will keep your details on file and may contact you from time to time with relevant information about my work as an MP. If you do not wish to receive further correspondence from me please write to the above address.

2. Letter from the Commissioner to Mr Nick Smith MP, 28 June 2017

25 I would welcome your help with an allegation I have received from Professor Nigel Copner about your compliance with paragraph 15 of the House of Commons Code of

¹ The enclosed envelope was a plain cream-coloured, 1st class postage pre-paid House of Commons window envelope

Conduct for Members. I enclose a copy of Prof Copner's letter and the enclosures he sent with it.

The scope of my inquiry

5 The scope of my inquiry will be, in essence, to establish whether you have used parliamentary resources to confer an undue advantage on a political organisation.

The relevant rules and guidance

Paragraph 15 of the Code of Conduct (copy of Code enclosed) says that:

10 *"Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.*

15 The Rules for the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis (enclosed) say, at paragraphs 2 - 4:

20 *"2. The rules cannot be expected to cover every eventuality; Members should therefore always behave with probity and integrity when using House-provided stationery and postage. Members should regard themselves as personally responsible and accountable for the use of House-provided stationery and postage. They must not exploit the system for personal financial advantage, nor (by breaching the rules in paragraph 3 below) to confer an undue advantage on a political organisation.*

25

3. House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary function. In particular, this excludes using stationery or postage:

30 *In connection with work for or at the behest of a political party (including fund-raising for a political party, advocating membership of a political party or supporting the return of any person to public office;*

...."

4. In addition:

- *....*

- *Pre-paid envelopes may only be used for correspondence sent by or on behalf of Members. They should not be sent to others to facilitate a reply. Members should set up an individual Freepost account with the Royal Mail for surveys and other such requirements.”*

5 Next steps

I would welcome your comments on the allegation that your letter amounts to a breach of the House’s rules and the Code of Conduct for Members. In particular it would be helpful to have the following information:

- how the database for this mailshot was populated;
- 10 • how many similar letters were distributed as part of this mailing;
- whether the paper used to print this was part of your House-provided allocation of stationery (I believe the postage pre-paid envelopes are clearly so);
- 15 • how it came about that this letter was sent in a House-provided postage pre-paid envelope; and
- whether you consider this email to amount to party political campaigning and, if you do not, the reason(s) for that belief;

20 The postscript to your letter says *“I will keep your details on file and may contact you from time to time with relevant information about my work as an MP. If you do not wish to receive further correspondence from me please write to the above address.”* It would be helpful to have your comments on the appropriateness of that postscript and details of any further communications which you sent using House-provided stationery and/or pre-paid postage in the period between 26 April and 3 May 2017.

25 I enclose a copy of the *Commissioner’s Information Note*,² which sets out the procedure I follow. I am writing to Prof Copner to let him know that I have decided to begin an inquiry into this matter. I will shortly update my parliamentary web pages to show the fact that I am conducting an inquiry into an allegation into an alleged breach of paragraph 15 of the Code of Conduct. My office will not comment further on any aspect of the inquiry to third parties. (They will, however, confirm
30 that I have begun an inquiry if asked before this information is posted on my webpages and they will answer factual questions about the processes I follow and the standards system more generally.)

² <http://www.parliament.uk/documents/pcfs/New%20Website%20Documents/PCS-Information-Note.pdf>

As you will be aware, my inquiries are conducted in private. This letter and any subsequent correspondence between us is protected by parliamentary privilege until such time as a final report is published. (Any such report will include all the relevant evidence, including our correspondence.) I would, therefore, ask that you respect that confidentiality.

As a matter of courtesy, I should say now that I may make enquiries of the relevant House authorities in due course. If I do so, I will share that correspondence with you. While I do not, at this stage, know whether it will be necessary to interview you about this matter, it would be open to you to be accompanied at any such interview. I am, of course, very happy to meet with you at any stage if you would find that helpful.

I would appreciate your help and co-operation, and welcome your comments on the allegation, together with any evidence you feel may assist my investigation, as soon as possible and no later than 6 July 2017.

15 *28 June 2017*

3. Letter from the Commissioner to the Electoral Commission, 3 July 2017

I am currently investigating an allegation of misuse of House-provided stationery by Mr Nick Smith MP. I met Mr Smith this morning and he asked whether – if I were to find he had acted in breach of the House’s rules and ask him to refund the cost to the House Authorities– he might need to register as an election expense the cost of the mailshot concerned.³ As the registration of electoral expenses is a matter for the Electoral Commission, I did not attempt to advise Mr Smith on this point.

I enclose a copy of the letter in question, which Mr Smith sent to some of his constituents on 26 April 2017. I would be grateful if you would arrange for a reply to be sent direct to Mr Smith at the House of Commons, who I know is anxious for a response given the approaching deadlines for making returns under PPERA and RPA.

As you may be aware, it would be pertinent to my inquiry if the Commissioner were to regard this as an election expense under PPERA. I would, therefore, be grateful to be copied in to your reply to Mr Smith.

3 July 2017

³ This was an informal meeting in which Mr Smith asked about the procedure I follow during an inquiry. This was not an evidence-gathering interview and I did not make a formal note of that meeting.

4. Letter from Mr Nick Smith MP to the Commissioner, 5 July 2017

I am writing in response to your request for help about an allegation made regarding a letter sent out on 26 April to constituents.

5 As background, when the snap election was called I received inquiries from Blaenau Gwent constituents asking if they could contact me in the coming election. There are many ongoing cases or policy enquiries from constituents where feedback or help is sought on a regular basis, and I wanted to avoid concerns that these cases may be abandoned.

10 It was also my understanding that during the dissolution process, Members can still continue urgent casework. However, this isn't common knowledge for the public and I didn't want constituents to think that they couldn't access a service that was still available to them in times of need.

15 As a result, in my capacity as an MP, I wrote a standardised letter to people who had contacted me for constituency casework support since June 2015 (after the last general election). This mailing went out to 1,411 people using Parliamentary paper and envelopes. The mailout was populated using my office's casework database which is maintained entirely separate to contact details retained in order to communicate with voters on campaigning and party political matters.

20 My intent was to let people know they could still get in touch for help, but that I would no longer be the MP as of 3 May. I included the details of Facebook, Twitter etc. as these are all avenues through which constituents get in touch. I also made sure on these sites to further point out I was no longer the sitting MP during the short campaign.

25 The purpose of the letter was not to support my return to public office. I did not ask people to vote for me or my party. There are no references to my performance as an MP, ways people could help during the campaign or pledges from me if re-elected. It is my view that the content of this letter clearly related to my parliamentary duties and does not confer any undue advantage on a political organisation. Therefore the letter abides by both the letter and spirit of paragraph 15 of the House Code of
30 Conduct.

35 As for your inquiry about the postscript, I carry this on all letters I send out to constituents as an MP. I want to ensure that people know they are able to get in touch if they do not want follow-up mailings on certain issues. Furthermore, the postscript explains the reason why and for what purpose contact information is retained and used which in my view is consistent with guidance on this matter issued by the Information Commissioner's Office. This is pre-printed on my Parliamentary headed paper along with the picture, office address etc. and was not added on this letter in particular.

In addition, no Parliamentary stationery was provided as part of the mailout for people to get back in touch with me. No other letters were sent out in the period between 26 April and 3 May save correspondence on individual casework.

5 I acted in good faith in sending out this letter as an MP to constituents. I also understand the Parliamentary Commissioner for Standards has to make a decision on this matter and I am happy to abide by any ruling made.

5 July 2017

5. Letter from the Commissioner to the Director of Accommodation and Logistics Services, 6 July 2017

10 I would like to ask for your advice on a complaint I have received about Mr Nick Smith MP, and into which I have begun a formal inquiry. In essence, the allegation made by Prof Copner is that Mr Smith misused House of Commons stationery for what appear to be party political purposes.

15 I enclose the relevant correspondence, together with the papers that led to the inquiry. Please would you let me have your advice on whether, under the guidance given to Members on the use of stationery and postage-paid envelopes provided by the House of Commons, you consider the correspondence Mr Smith after the General Election was triggered on 19 April was acceptable. I would be grateful to have your views on whether the content of the letter falls within the definitions of acceptable
20 use of House-provided resources.

I appreciate that there is no published definition of where the boundary between parliamentary and political use lies and it would be helpful to have your observations on the factors you have taken into in reaching a view in this instance.

25 It would be very helpful to have your response to this letter by 20 July. Thank you for your assistance.

6 July 2017

6. Letter from the Commissioner to Mr Nick Smith MP, 6 July 2017

Thank you for your letter of 5 July 2017. The information you have provided is very helpful.

30 I said at the outset that I might seek advice from the House authorities. I have today written to the Director of Accommodation and Logistics Services, [name redacted], to seek her advice. I enclose a copy of that letter (minus enclosures, as you have seen them already) for information. I will give you an opportunity to comment on her advice before I make a decision on the allegation about your use of stationery.

Since it is unlikely that I will be able to conclude my inquiry before the summer recess, I would be grateful if you would let me know the address at which I may most easily contact you during the summer.

6 July 2017

5 **7. Letter from the Electoral Commission to the Commissioner, 7 July 2017**

Thank you for your letter to [named redacted] dated 3 July. [She] has asked me to respond on her behalf.

10 As requested, I am providing you with a copy of our letter to Mr Nick Smith MP, in relation to whether, if the costs associated with the letter to his constituents were deemed to breach the House's rules and consequently should be refunded to the House, the costs should be reported as part of Mr Smith's return of election expenses for the 2017 UK Parliamentary General Election (UKPGE).⁴

15 As you will see, we do not consider these costs to be reportable as election expenses, because, subject to the letter having been sent as dated, the costs appear to have been incurred before the date upon which Mr Smith became a candidate. Candidates are only required to report expenses which promote their candidacy during the regulated period, which began on 4 May at the earliest for the UKPGE.

7 July 2017

20 **8. Letter from the Director of Accommodation and Logistics Services to the Commissioner, 17 July 2017**

25 Thank you for your letter dated 6 July 2017 concerning a complaint you have received from Prof Copner regarding Nick Smith MP's use of stationery. I note that you have asked for advice on whether the correspondence, using pre-paid postage envelopes and stationery Mr Smith sent out after the General Election was called was acceptable within the current rules on House of Commons provided stationery. You have asked that I include the factors I have taken into account when reaching my view; I have referred to your November 2014 guidance to Members, which I believe was re-issued to all Members in the last Parliament (before the Referendum on exiting the European Union), on the use of House provided stationery in a period of heightened sensitivity.

30 In regard to the covering letter, the current rules do allow for Members to use stationery and envelopes to contact constituents and others proactively and a proper use would be for the dissemination of factual information shortly before a General Election has been triggered; e.g. in his letter Mr Smith says "*This session of Parliament will end on 3 May and so we will have no MPs until the new Parliament meets*" which fulfils this criteria. However, in going on to say: "*I am standing for re-election, and I just wanted to let you know how you can get in touch with me during*

⁴ Enclosure not reproduced

the campaign if there is anything you think I may be able to help with" my view is that the letter contravenes the rules that exclude the use of stationery and postage:

5 *In connection with work for or at the behest of a political party (including fund-raising for a political party, advocating membership of a political party or supporting the return of any person to public office);"*

The correspondence would appear to me to be in breach of House of Commons Commission rules on stationery use.

17 July 2017

10 **9. Letter from the Commissioner to Mr Nick Smith MP, 1 September 2017**

Thank you for your letter of 5 July 2017. The information you provided is very helpful. Thank you also for letting me have contact details for the recess period and for letting me know by telephone when you would be on holiday. As you know, I shared your letter and other relevant correspondence with the Director of
15 Accommodation and Logistics Service on 6 July. We agreed that I would share her advice with you after the recess.

Update

[The Director's] advice is enclosed. As you can see she has told me that in her view your letter contravenes the rule against House-provided stationery "*in connection with work for or at the behest of a political party.*" In explaining that view, [the
20 Director] refers to the guidance I issued to all Members in November 2014 and re-issued on 1 April 2016, just before the referendum on exiting the European Union. In case you do not have that easily to hand, I enclose a copy of the guidance and the covering letter sent in April 2016.

25 My decision

You have already explained to me the basis on which you sent out the letter about which Prof Copner made his allegation. You have told me, and I accept, that this action was taken in good faith, hoping to avoid concerns that cases which were already in progress would not be abandoned.

30 Nonetheless, I accept [the Director's] advice. I have decided that, by including the sentence which says "*I am standing for re-election, and I just wanted to let you know how you can get in touch with me during the campaign if there is anything you think I may be able to help with*" it was a misuse of House-provided resources. I have also taken into account that the letter was not sent only to those constituents who were
35 currently in correspondence with you. That breach of the House's rules amounts to a breach of paragraph 15 of the Code of Conduct for Members.

Next steps

I would usually invite the Member to comment on the advice I receive from House officials before taking a decision based on that advice. However, in addition to explaining why you did not think you had acted in breach of the House's rules, you
5 have said that you understand that I must make a decision and that you would abide by my ruling. I think I can tell you now how I would propose to conclude this inquiry. However, if you do have any comments you wish to make on [the Director's] advice or on the decision I have reached based on it, you should let me know and I will consider those comments carefully before finalising this matter.

10 If you accept my provisional conclusion, with your agreement, I would be willing to conclude the inquiry through the rectification procedure. Under Standing Order 150, I am able to rectify a complaint in these circumstances without submitting a full and formal memorandum to the Committee on Standards. I would instead write to the complainant, following which the matter would be closed. I inform the
15 Committee of the outcome and my letter to the complainant and the relevant correspondence is in due course published on my webpages.

In order for me to implement the rectification procedure, it would be necessary for you to accept that you were in breach of the Code of Conduct and the rules of the House as set out in the *Rules for the use of stationery and postage-paid envelopes
20 provided by the House of Commons, and for use of the Crowned Portcullis*. The Committee would normally expect the Member to have apologised and taken any steps necessary to rectify the error. In this instance, that would involve refunding the House authorities a sum equivalent to the value of the misused stationery, which I have calculated as £1,161.49. (This is based on 1,411 first class pre-paid envelopes
25 (@ £172.95 per box of 250 (£976.13), and 1,411 sheets of over-printed embossed headed notepaper @ £9.03 per box of 250, plus over-printing of £134.40 (£185.36).) If you agree to this, I will send you information about how to make that refund.

If you were to agree to the resolution of the complaint on the basis of a rectification, I would write to the complainant, enclosing a copy of all the relevant evidence. A
30 draft of this is enclosed (the letter to the complainant is the first item in the evidence pack). While the content is, of course, a matter for me, you are invited to comment if necessary on factual accuracy. I would then conclude my inquiry.

Other matters

I am grateful to you for your assurance about the separation of your parliamentary
35 and party political databases; that is important. However, the Committee would generally expect Members to take steps where possible to avoid a recurrence of any breach of the rules, and you may wish to consider how you might track correspondence you receive in the course of your parliamentary work so that it is possible to identify those constituents who may need specific factual information on
40 Dissolution in future.

Action

It would be very helpful if you could let me know by 15 September 2017 whether you would like me to rectify the complaint on the basis I have suggested and whether you have comments on the content of the evidence pack.

5 I am most grateful for your help.

1 September 2017

10. Email from Mr Nick Smith MP to the Commissioner, 12 September 2017

Thank you for your letter of 1 September. As I said in previous correspondence, I am happy to abide by the ruling you made.

10 I am glad to see that you have accepted my letter about casework was sent to constituents in good faith. However, I accept that the wording in this instance did not meet standards and I apologise for breaching the stationery rules as a result.

I agree to your proposal for rectifying the error and await guidance on how I can pay the requested amount at the first available opportunity.

15 *12 September 2017*