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Summary

5 The allegation I investigated was that the Member had used House-provided stationery and the crowned portcullis in a way that was contrary to the published Rules, which put the Member in breach of the requirements of paragraph 16 of the Code of Conduct. I concluded that the Member had breached the rules on the use of stationery by using House-provided stationery to send a letter to Monsieur Barnier. The Member stated that as he had replied to an open letter from Monsieur Barnier which had been placed on social media, his use of the stationery was permitted within the rules. I concluded that the Member was not replying to a letter which had
10 been addressed to him and therefore had used House-provided stationery and the crowned portcullis contrary to the published Rules and this amounted to a breach of paragraph 16 of the House of Commons Code of Conduct for Members.

I upheld the allegation.

15 The Member accepted my decision and apologised for the breach. I considered the Member's remedial actions to be an appropriate outcome and concluded the matter by way of the rectification procedure available to me under Standing Order 150.

The Rt Hon Mark Francois MP: Resolution Letter

Letter from the Commissioner to Complainant, 21 January 2021

5 I wrote to you on 28 July 2020 to tell you that I had begun an inquiry into your allegation that The Rt Hon Mark Francois MP had breached paragraph 16 of the Code of Conduct for Members.

10 Mr Francois MP has acknowledged and apologised for his breach of the rules. The full rationale for my decision can be found in my letter to Mr Francois MP, dated 19 November 2020 (item 12 in the written evidence pack), which you can access once the evidence pack has been published.

I consider this breach to be at the less serious end of the spectrum and have decided that this inquiry should be concluded through the rectification procedure, available to me through House of Commons' Standing Order No 150.

15 I will publish my decision and the written evidence pack shortly on my webpages [redacted] and I will report the outcome to the Standards Committee in due course.

Thank you for bringing this matter to my attention. I confirm that the matter is now closed.

Written evidence

1. Email from the Complainant to the Commissioner, 30 June 2020

5 I note that the letter (copied as pictures) was sent by Mark Francois, MP for Rayleigh and Wickford to Michel Barnier, of the European Commission using Parliamentary stationery and resources.

10 You will note from his opening statement in the letter he is neither acting as a member of the Govt, or as a member of a recognised political party and indeed not even as the Member of Parliament for Rayleigh and Wickford. He purports to be representing an effectively secretive self-interest group called ERG (European Research Group).

As he has stated he is acting in his role for a non-parliamentary group, his use of parliamentary resources is in breach of standards. Can you please take action to ensure Mr Francois and those of his colleagues who are also members of this group cannot abuse the resources of the state for their own ends?

15 I look forward to your reply.

30 June 2020

20

25

Attachment 1

RT HON MARK FRANCOIS MEMBER OF PARLIAMENT FOR RAYLEIGH & WICKFORD

HOUSE OF COMMONS
LONDON SW1A 0AA

M. Michel Barnier
Head of Task Force
European Commission
Task Force for Relations with the United Kingdom
1049 Bruxelles/Brussel
Belgium

26 June 2020

Dear Monsieur Barnier,

A Missive from a Free Country

I am writing to you in my capacity as the Chairman of the European Research Group (ERG) the grouping of Eurosceptic Conservative MPs - it is possible that you may have heard of us. We have noticed in recent months that you have been writing to a number of our colleagues in the House of Commons and so we thought it was time that we returned the compliment.

There are now less than 200 days to negotiate and ratify a free trade agreement between the UK and the EU before the transition period ends, meaning that there is little margin for error. I am therefore writing to encourage the development of a sense of urgency in the negotiations, so that any deal that is negotiated between you and David Frost is able to pass through both the European Parliament and the House of Commons in good time.

The ERG has always believed that the ideal relationship between the UK and the EU is one of being firm friends and sovereign equals. As a group, we are strong believers in the importance of free trade and have therefore been watching the negotiating rounds between you and Mr Frost with great interest. We support the negotiating objectives set out by the Prime Minister but are concerned to make sure that there is no repeat of the errors that were made during the negotiation of the original Withdrawal Agreement back in 2017/18.

It is clearly very important that any deal negotiated between the UK and the EU is one that fully recognises the UK's sovereignty, integrity and autonomy. We have noted - with growing concern - some of the demands that the EU has made over the last few months, especially in regard to the so-called 'Level Playing Field', which seems like little more than a demand that the UK continues to follow EU laws and judgements, even though we have now formally left the European Union. There are also worrying signs that the EU wants the UK to remain subject to some form of its extremely damaging Common Fisheries Policy, which is anathema to us and to many of our countrymen as well.

Serving the communities of Ashington, Canewdon, Hawkwell, Hockley, Hullbridge, Nevendon, Paglesham,
Rawreth, Rayleigh, Shotgate, South Farnbridge, Stambridge & Wickford.



In the spirit of honesty between friends, and for the avoidance of doubt, there can be no way that the European Court of Justice (ECJ) can be allowed to have any role in the UK's national life after the end of this year. I refer you to the Conservative Party's 2019 Manifesto - which I and all my Conservative colleagues stood on late last year - which made clear to the British people that we would have 'a new relationship based on free trade and friendly cooperation, not on the EU's Treaties or EU law'. It also made equally clear that the UK would be 'in full control of our fishing waters'. We consider these statements to be important commitments to the British people and we therefore intend to help uphold them.

I would like to make clear that the ERG fully supports the Prime Minister's Lead Negotiator, David Frost. Based on his track record - in negotiating a revised Withdrawal Agreement and an amended Political Declaration which, *inter alia*, committed both sides in principle to negotiate a 'Comprehensive Free Trade Agreement' - we have confidence in him and his team and strongly urge you to listen when he says that certain EU demands are simply not going to work.

I hope that you find this letter and the points that I have set out above useful - and that it spurs you to change some of the unreasonable demands that the EU is currently making. If you and your team are willing to accept that the United Kingdom will be a fully independent country at the end of this year, responsible for its own destiny but willing to trade equitably with its neighbours, I can see no reason why we won't be able to ratify a free trade deal with time to spare.

I sincerely hope that this round of negotiations proves fruitful and that we can make rapid progress towards an exciting new Treaty which provides for a new era of friendly cooperation between our peoples and facilitates an increase in trade on both sides. This would not only be a good thing in its own right, but should assist us to mutually recover economically, in the aftermath of the wicked Covid-19 pandemic.

In summary, all I and my colleagues in the ERG have ever really wanted, is to live in a free country, which elects its own Government and makes its own laws and then lives under them in peace. We have come a very long way in securing this objective and we have no intention of abandoning it, either now or in the future.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Francois'.

Rt Hon Mark Francois MP
Member of Parliament for Rayleigh and Wickford and
Chairman of the European Research Group

2. Letter from the Commissioner to The Rt Hon Mark Francois MP, 28 July 2020

5 I am writing to seek your help with an inquiry into an allegation I have received from [name redacted] about your compliance with paragraph 16 of the House of Commons Code of Conduct for Members. I enclose a copy of [name redacted] email and the enclosure sent with it.

The scope of my inquiry

10 My inquiry will focus on whether your use of House-provided stationery, for a letter sent to Monsieur Barnier on 26 June 2020, breached paragraph 16 of the House of Commons' Code of Conduct for Members.

The relevant rules of the House

The overarching rules on the use of resources provided by the public purse are found in the House of Commons' Code of Conduct for Members.

15 Paragraph 16 of the current Code of Conduct for Members states:

20 *"16. 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."*

Rules on the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the crowned portcullis

Paragraph 2 says:

25 *"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*
30 *paragraph 3 below) to confer an undue advantage on a political organisation."*

Paragraph 3 of these rules lists circumstances when House-provided stationery should not be used. It says that "House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions". The

rules clearly exclude using stationery or postage; “in connection with work for or at the behest of a political party...”

5 Paragraph 6 of the rules state, “When a Member is **replying to correspondence**, party political references are allowed in House-provided stationery or in correspondence sent in pre-paid envelopes, subject to the restrictions in paragraph 3 above.” [my emphasis].

Next steps

10 I would welcome your comments on the allegation that you have acted in breach of paragraph 16 of the Code of Conduct for Members. I would also be grateful for your answers to the following questions:

1. Is the scanned image a copy of a letter sent by you to Monsieur Barnier using House-provided stationery?
2. Were you aware of the Rules regarding the use of House-provided stationery and pre-paid postage, and in particular were you aware of paragraph 6?
- 15 3. Did you take advice from the House authorities before sending out this communication?
 - a) If you did, please describe the advice given and provide copies of any correspondence you exchanged with House officials on the matter.
- 20 4. If your letter was a reply to an earlier letter from Monsieur Barnier, please provide a copy of his letter to you?
5. Do you believe that the letter could reasonably be construed as being “in connection with work for or at the behest of a political party...” and/or for purposes other than “in support of your parliamentary duties?”
 - a) If not, please explain your reasons for that belief.
- 25 6. It would be helpful to receive any evidence to support your responses when you reply to this letter. Any other points you wish to make to help me with this inquiry would also be welcome.

Important information

30 My inquiries are conducted in private. Following the decision taken by the House on 19 July 2018, I will not publish the fact that I am conducting an inquiry into an allegation of an alleged breach of the Code of Conduct. My office will not comment on any aspect of the inquiry to third parties. They will answer direct factual

questions about the processes I follow and the standards system more generally but will neither confirm nor deny that I have begun an inquiry.

Procedure

5 I enclose a copy of the Commissioner's Information Note, which sets out the procedure for inquiries. Please note that this has not yet been updated to reflect the changes flowing from the decision of 19 July 2018.

This letter and any subsequent correspondence between us in connection with this inquiry is protected by parliamentary privilege. It should be kept confidential until the outcome of my inquiry is published.

10 While I do not expect 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. Given the current circumstances, all interviews will be held either by phone or video call.

15 I should say now, as a matter of courtesy, that I may seek the advice of the House authorities and others as part of this inquiry.

Potential outcomes

20 Inquiries are generally concluded in one of three ways. If the evidence does not substantiate the allegation, it will not be upheld. If the evidence demonstrates a breach of the rules, I may – in certain circumstances – uphold the allegation and conclude the inquiry using the rectification procedure, without making a referral to the Committee on Standards. Where an allegation is not upheld or is rectified, the material is published on the Parliament website, on my webpages.

25 If I uphold the allegation and it is either unsuitable for the rectification procedure, or you do not accept my decision, I must make a referral to the Committee on Standards. My Memorandum to the Committee would be published, as an appendix to the Committee's own Report.

30 I should make clear that all the relevant evidence, including our correspondence, will be published when this inquiry is concluded. I routinely redact the personal data of third parties unless it is relevant to my decision(s). If you provide sensitive material which you think I should consider redacting, please tell me. I would give careful consideration to any such request.

Action

35 I would be grateful to have your response to this letter as soon as possible and no later than 11 August 2020. If you would prefer me to communicate with you using an alternative email, please give the details when you reply to this letter. It would

also be helpful if you were willing to provide a telephone number through which I might contact you. Information provided to me during the course of my inquiry will be retained, and disposed of, in accordance with the House of Commons' Authorised Records Disposal Policy.

5 Thank you for your cooperation with this matter.

28 July 2020

3. Letter from The Rt Hon Mark Francois MP to the Commissioner, 19 August 2020

10 Thank you for your letter of 28th July 2020, regarding your inquiry into my use of House of Commons letterhead in a letter which I wrote to Monsieur Michel Barnier on 26th June 2020. In your letter you asked a number of questions, which I have responded to below:

1. *Is the scanned image of a copy of a letter sent by you to Monsieur Barnier using House provided stationery?*

15 Yes

2. *Were you aware of the Rules regarding the use of House-provided stationery and pre-paid postage, and in particular were you aware of paragraph 6?*

Yes

20 3. *Did you take advice from the House authorities before sending out this communication?*

a) If you did, please describe the advice given and provide copies of any correspondence you exchanged with House officials on the matter.

No, as I believed I was acting within the House rules, I did not seek any advice.

25 4. *If your letter was a reply to an earlier letter from Monsieur Barnier, please provide a copy of his letter to you?*

Yes (see copy of letter and explanation below).

5. *Do you believe that the letter could reasonably be construed as being "in connection with work for or at the behest of a political party..." and/or for purposes other than "in support of your parliamentary duties?"*

a) *If not, please explain your reasons for that belief.*

No (again please see below for my explanation.)

My explanation:

5 On 25th May 2020 Michel Barnier, Head of the Task Force for Relations with the United Kingdom, wrote a letter to several UK MPs regarding the ongoing negotiations between the UK and the EU about our future relationship, post leaving the European Union. His letter appears to be partly in reply to an earlier letter from the [name redacted]. A copy of Mr Barnier's letter of 25th May 2020 is attached for reference.

10 On 27th May 2020, [name redacted], one of the recipients of Monsieur Barnier's letter, made it public by tweeting it, which was brought to my attention sometime later by my staff. As you will note, in his letter, which is addressed:

"Dear Honourable and Right Honourable Members of Parliament", Mr Barnier then states:

15 "Thank you for your letter of 15th May 2020. *I remain keen on and interested in hearing the views of British political parties and stakeholders in order to appreciate all dimensions of the national debate.*" [My emphasis added.]

20 As I have been admittedly quite a prominent commentator on the whole Brexit issue for several years now, I hope we can both reasonably agree that I legitimately qualify as a "stakeholder" in the Brexit debate and Monsieur Barnier states in his own words, that he was keen to hear from "stakeholders".

It was in this context that I replied to Monsieur Barnier's letter and indeed, I reference this in my opening paragraph of my letter to him. In other words, I was replying directly to his invitation for comments.

25 In his letter of complaint, (which you kindly included with your letter) [name redacted] claims that I was acting on behalf of a "non-Parliamentary group" in writing this letter to Monsieur Barnier. This is clearly incorrect. I was writing as a leader of the European Research Group (ERG) which is a voluntary grouping of Eurosceptic Parliamentarians (not exclusively Conservative) but who are also very
30 clearly stakeholders in the Brexit debate too.

In summary, I was not acting on behalf of a political party but was replying directly to Monsieur Barnier's broad invitation for comment from "stakeholders", in the European issue, including MPs, in a letter which he himself addressed to "Dear Honourable and Right Honourable Members of Parliament".

I hope this explanation is clear and is helpful to you in addressing this complaint.



EUROPEAN COMMISSION
Task Force for Relations with the United Kingdom
The Head of the Task Force

Ref. Ares(2020)2729689 - 26/05/2020

Brussels, 25 May 2020
uktf(2020)3034648

Dear Honourable and Right Honourable Members of Parliament,

Thank you for your letter of 15 May 2020. I remain keen on and interested in hearing the views of British political parties and stakeholders in order to appreciate all dimensions of the national debate.

The European Union remains determined to build a new and ambitious partnership with the United Kingdom in the short time that is available, given your government's repeated statements that it will not agree to an extension of the transition period.

I take note of your views on a possible extension of the transition period. Such an extension of up to one or two years can be agreed jointly by the two parties. The European Union has always said that we remain open on this matter. Any extension decision has to be taken by the Joint Committee before 1 July, and must be accompanied by an agreement on a financial contribution by the United Kingdom.

Regardless of the extension issue, please rest assured that the EU side will continue to do its utmost to reach an ambitious and balanced partnership agreement with the United Kingdom, along the lines agreed with the Government of the United Kingdom in the Political Declaration in October 2019.

My team and I remain at your disposal for any further exchanges.

Yours sincerely, *with his cordial regards*

Michel BARNIER

Ian Blackford MP, SNP
Ed Davey MP, Liberal Democrat party
Liz Saville Roberts, Plaid Cymru
Colum Eastwood, Social Democratic and Labour Party
Caroline Lucas MP, Green Party
Stephen Farry MP, Alliance party

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
Office: BERL 05/225 - Tel. direct line +32 229-94060

Electronically signed on 26/05/2020 15:17 (UTC-02) in accordance with article 4.2 (Validity of electronic documents) of Commission Decision 2004/563

19 August 2020

4. Letter from the Commissioner to The Rt Hon Mark Francois MP, 10 September 2020

5 Thank you for your letter of 19 August 2020, in response to my initiation of the inquiry into the complaint regarding your use of the House provided stationery.

In accordance with my usual practice regarding inquiries into the use of House provided stationery, I have today written to the Director of Customer Experience and Service, [redacted], seeking his advice. I enclose a copy of that letter for your information.

10 I will write to you again when I have [redacted] advice and to give you an opportunity to comment. In the meantime, our correspondence remains protected by parliamentary privilege and I must ask that you continue to maintain the strict confidentiality of the inquiry.

Thank you for your continued co-operation with this matter.

15 *10 September 2020*

5. Letter from the Commissioner to Director of Customer Experience and Service, 10 September 2020

20 I would like to ask for your advice on a complaint that I have received regarding The Rt Hon Mark Francois MP, who is currently the Member of Parliament for Rayleigh and Wickford.

The complaint is that Mr Francois used House of Commons headed paper to send out a letter allegedly containing party political references, and which therefore put him potentially in breach of paragraph 16 of the House of Commons Code of Conduct for Members.

25 I enclose a copy of the relevant correspondence, including Mr Francois's response (dated 19 August 2020) to my initiation of this inquiry. I would be grateful if you would tell me how you would have advised Mr Francois at the time, had he sought your advice about using House-provided stationery.

30 I appreciate that the published guidance regarding the use of stationery cannot cover every eventuality, and it would be useful to have your observations on the factors you have taken into account in reaching a view in this instance.

It would be very helpful to have your response to this letter as soon as possible please and ideally no later than 17 September 2020 please.

Thank you for your continued assistance with these matters.

10 September 2020

5 **6. Email from Director of Customer Experience and Service to the Commissioner, 11 September 2020**

10 The House provides the stationery budget to assist Members in performing their parliamentary duties but the rules cannot be expected to cover every eventuality; ultimately it is incumbent on the Member to always behave with probity and integrity when using House-provided stationery and postage and they should regard themselves as personally responsible and accountable for the use of it. Although we can provide guidance on usage, if a complaint were made, it is the Commissioner for Standards who rules on individual cases, and our guidance cannot bind the Commissioner's ability to come to a different conclusion. [Please see the stationery rules for more details.](#)

15 As per rule 3, "House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions" and so I would advise that they should not use House provided stationery to send a letter in their capacity as the Chairman of the European Research Group (ERG).

11 September 2020

20 **7. Letter from the Commissioner to The Rt Hon Mark Francois MP, 23 September 2020**

When I wrote to you on 10 September 2020, I said that I was seeking the advice of the House authorities and that I would give you the opportunity to comment on that advice before I reach any decision.

25 I have now received a response from the Director of Customer Experience, [name redacted]. However, I need to clarify a few points and so will write to you again once I have obtained this additional information.

30 In the meantime, and as previously, our correspondence remains protected by parliamentary privilege and I must ask that you continue to maintain the strict confidentiality of the inquiry.

Thank you for your continued assistance with this matter.

23 September 2020

8. Email from the Commissioner to Director of Customer Experience and Service, 23 September 2020

5 Thank you for your advice of 11 September 2020. I would be grateful if you would take some time to assist me with a more specific query in relation to the same matter.

Mr Francois has advised that he legitimately used House of Commons headed paper containing party political references, as his letter was a reply to correspondence, so triggering paragraph 6 of the stationery rules.

10 *6. "When a Member is replying to correspondence, party political references are allowed in House-provided stationery or in correspondence sent in pre-paid envelopes, subject to restrictions in paragraph 3 above."*

15 Mr Francois was not a direct recipient of the letter from Monsieur Barnier. Mr Francois responded to the letter when it was openly placed on social media by one of the recipients.

I would be grateful if you would assist me with the following:

In your opinion for paragraph 6 to be triggered does the Member have to be replying to correspondence that was addressed directly to them.

20 It would be very helpful to have your response to this letter as soon as possible please and ideally no later than 2 October 2020 please.

Thank you for your continued assistance with these matters.

23 September 2020

9. Email from the Director of Customer Experience and Service to the Commissioner, 9 October 2020

25 With regards your query, 'in your opinion for paragraph 6 to be triggered does the Member have to be replying to correspondence that was addressed directly to them', I would say yes they should be replying to correspondence that was sent directly to them.

30 Additionally, rule 6, when talking about replying to correspondence, states 'subject to restrictions in paragraph 3' and paragraph 3 clearly states that 'House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions'. I would argue that writing to Monsieur Barnier

in Mr Francois's capacity as Chairman of the European Research Group is not part of his 'parliamentary functions'.

9 October 2020

10. Letter from the Commissioner to The Rt Hon Mark Francois MP, 20 October 2020

5

When I wrote to you on 10 and 23 September 2020, I said that I was seeking the advice of the House authorities and that I would give you the opportunity to comment on that advice before I reach any decision.

10 I have now received a response from the Director of Customer Experience, [name redacted], who has advised as follows.

Advice received on 11 September 2020

15 *The House provides the stationery budget to assist Members in performing their parliamentary duties but the rules cannot be expected to cover every eventuality; ultimately it is incumbent on the Member to always behave with probity and integrity when using House-provided stationery and postage and they should regard themselves as personally responsible and accountable for the use of it. Although we can provide guidance on usage, if a complaint were made, it is the Commissioner for Standards who rules on individual cases, and our guidance cannot bind the Commissioner's ability to come to a different conclusion. Please see the stationery rules for more details.*

20 *As per rule 3, "House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions" and so I would advise that they should not use House provided stationery to send a letter in their capacity as the Chairman of the European Research Group (ERG).*

Advice received on 9 October 2020

25 *With regards your query, 'in your opinion for paragraph 6 to be triggered does the Member have to be replying to correspondence that was addressed directly to them', I would say yes they should be replying to correspondence that was sent directly to them.*

30 *Additionally, rule 6, when talking about replying to correspondence, states 'subject to restrictions in paragraph 3' and paragraph 3 clearly states that 'House-provided stationery and pre-paid envelopes are provided only for the performance of a Member's parliamentary functions'. I would argue that writing to Monsieur Barnier in Mr Francois's capacity as Chairman of the European Research Group is not part of his 'parliamentary functions'.*

I would be grateful to receive any observations that you may care to make about [name redacted] advice by return and no later than 27 October 2020 please.

5 In the meantime, and as previously, our correspondence remains protected by parliamentary privilege and I must ask that you continue to maintain the strict confidentiality of the inquiry.

Thank you for your continued assistance with this matter.

20 October 2020

11. Letter from The Rt Hon Mark Francois MP to the Commissioner, 27 October 2020

10 Thank you for your latest letter of 20th October 2020, including post facto comments dated 11 September and 9 October from [name redacted], Director of Customer Experience and Service Delivery at the House of Commons. You asked for my reply by today's date.

15 To be clear, I never sought the advice of [name redacted], or any other official of the House, before replying to Monsieur Barnier's letter, as there was no ambiguity in my mind. In essence, he had written what was effectively an open letter, published by others on the internet, clearly inviting UK Parliamentarians to respond to him with their views on certain matters relating to Brexit and so I simply took him up on his offer.

20 However, I appreciate that these matters are somewhat complex. For instance, please see attached¹ a copy of an open letter from late October 2019 sent by [redacted] and [redacted], to Donald Tusk, President of the European Council, urging him to delay Brexit until 31 January 2020 and stating that the two parties will meanwhile press for an early General Election in the UK.

25 While I perhaps do not have the experience of [name redacted] on these specific matters, I would be intrigued as to his comments in due course on this letter too. In the meantime, I would politely offer the following observations:

1. The letter is clearly written on Parliamentary letterhead (with a Portcullis).
2. It is to a senior politician in the EU.
- 30 3. It is obviously unsolicited and, unlike mine to Barnier, is clearly not a reply of any kind.

¹ Not attached to protect identity of third parties

4. It is highly political in nature, including not just Brexit but the proposed timings for a General Election!
5. It was obviously drafted for subsequent publication (and was reported on by ITV's Political Editor, [name redacted] shortly thereafter, please see attached²).

Similarly, please also find attached³ a copy of another letter dated 8 October 2019, sent by [name redacted] on behalf of 19 Labour MPs to Jean Claude Juncker, the President of the European Commission, essentially asking for him not to further delay Brexit and to help come to a negotiated agreement with the UK Government. Again, subject to the opinion of [name redacted], I would offer the following observations:

1. The letter is clearly written on Parliamentary letterhead (with a Portcullis).
2. It is clearly to a senior politician in the EU.
3. Again, it is unsolicited and, again unlike mine, is not a reply of any kind.
- 15 4. It is very political in nature, including the proposed date for Brexit and how the MPs in question would be likely to vote in Parliament.
5. It was obviously drafted for subsequent publication (indeed see the associated press release which accompanied it⁴).

I note from one of your previous letters that you obviously receive a considerable number of complaints regarding use of Parliamentary stationery and I have no wish to add further to your burden in this regard. So, I am not currently seeking to lodge any complaint about these letters (and, besides, [name redacted] no longer serves in the House).

Nevertheless, I have included these open source examples to highlight how genuinely confusing these matters can become. If I have inadvertently transgressed the guidelines in this area then presumably these other MPs, [redacted] must surely have done so as well?

In summary, you mentioned in one of your previous letters to me on this subject that the guidelines do not cover every eventuality. I think these additional letters only serve to prove your point.

So to conclude, when I replied to Monsieur Barnier, I was acting in good faith, just as I'm sure these other MP's acted as well.

² Not attached to protect identity of third parties

³ Not attached to protect identity of third parties

⁴ Not attached to protect identity of third parties

27 October 2020

12. Letter from the Commissioner to The Rt Hon Mark Francois MP, 19 November 2020

5 Thank you for your letter of 27 October 2020 which I received on 3 November 2020. I now have sufficient information to be able to make a decision on the allegation I have been investigating.

My decision

10 I have given careful consideration to all the evidence, the points you have raised during our correspondence, the published Rules and guidance concerning the use of House-provided stationery and the advice of the House authorities. I have found that you have breached paragraph 16 of the Code of Conduct by including party-political references in a letter to Monsieur Barnier, which was sent on House-provided stationery.

The rationale for my decision

15 Paragraph 6 of the stationery rules state, “When a Member is replying to correspondence, party political references are allowed in House-provided stationery or in correspondence sent in pre-paid envelopes, subject to the restrictions in paragraph 3 above.”

20 You have told me that you were replying to Monsieur Barnier’s letter of 25 May 2020, which included an invite for comment and therefore your inclusion of party-political references would be permitted in line with paragraph 6 of the rules. I disagree with this.

25 As you are aware, I sought the advice of the House authorities in this matter and that advice has been shared with you. The Director of Customer Experience and Service Delivery has advised:

With regards your query, ‘in your opinion for paragraph 6 to be triggered does the Member have to be replying to correspondence that was addressed directly to them’, I would say yes they should be replying to correspondence that was sent directly to them.

30 I would agree with this approach. I have seen the letter from Monsieur Barnier (dated 25 May 2020), which was circulated on social media on the same day. I note that the direct recipients to this letter are listed at the end of the letter. I also note that you have not been named as an intended recipient of this letter. Although Monsieur Barnier had not sought your views specifically, once the letter was placed in the public domain it was, of course, open to you to write to him. But in my view,
35 that does not place your letter within the remit of paragraph 6 above. The rules on the use of stationery do not provide a definition of the word ‘reply’. However, when

read in the context of paragraph 6, I think it refers to answers to a letter or other correspondence addressed directly to you.

5 In your recent correspondence of 27 October 2020, you have brought to my attention other Members who have used House-provided stationery to reply to what you consider to be open letters. You have said you don't wish to submit a complaint about these and so I will not take the matters any further.

Although the letter was sent in breach of the rules, I consider this breach to be on the less serious end of the spectrum.

Next steps

10 As you may be aware, having decided that a breach of the Rules has occurred, I can, with the co-operation of the Member concerned, rectify less serious breaches using the powers available to me under Standing Order number 150. You are, of course, entitled to decline my proposed rectification, in which case I will refer this matter to the Committee on Standards for their review.

15 In order to progress this through rectification, I will require the following from you:

- a) Confirmation that you accept my decision, acknowledgment of, and an apology for your breach of the rules.

20 If you agree to this proposal, I will share with you a draft copy of my letter to the complainant, [name redacted], informing him of the outcome, alongside a draft copy of the written evidence pack. The content of my letter to the complainant is, of course, a matter for me alone. However, you will be invited to comment on the factual accuracy of the written evidence before it is published on my webpages; <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/>.

25 I would also report the outcome to the Committee on Standards in due course. Please let me have a response to this letter by 26 November 2020.

In the meantime, our correspondence remains protected by parliamentary privilege and I must ask that you continue to maintain the strict confidentiality of the inquiry.

30 As you know, due to the current pandemic, my team are currently working from home only, so I would be grateful if you could please send your response electronically to standardscommissioner@parliament.uk.

19 November 2020

13. Letter from The Rt Hon Mark Francois MP to the Commissioner, 26 November 2020

5 Thank you for your latest letter of 19 November, regarding your inquiry into my use of House of Commons Letterhead to reply to an open letter from Monsieur Barnier in June 2020.

This letter is to confirm that, if, in your judgment, I have breached the rules governing these matters then I am willing to accept your decision and to offer my apologies accordingly for breaching the rules.

10 I will now await the further stages to conclude your inquiry, as clearly outlined in your latest letter.

26 November 2020

14. Letter from the Commissioner to The Rt Hon Mark Francois MP, 3 December 2020

Thank you for your letter of 26 November 2020.

15 It is my judgment that you have breached the rules and accept your offer to apologise. The apology might be made by way of your formal response to this letter. Once I receive your apology, I will take steps to conclude the inquiry.

3 December 2020

15. Letter from The Rt Hon Mark Francois MP to the Commissioner, 4 January 2021

20 A Happy New Year to you.

Further to your latest letter of 3rd December 2020, this reply is to confirm that if I have inadvertently breached the rules regarding the use of House of Commons letterhead and stationery, then I obviously wish to apologise for doing so.

25 Given this apology, perhaps you could now advise me on the timings for bringing the final stages of your inquiry to a conclusion?

4 January 2021

16. Letter from the Commissioner to The Rt Hon Mark Francois MP, 7 January 2021

30 Thank you for your letter of 4 January 2021. I note that you say that if you have inadvertently breached the rules then you would “obviously like to apologise”. The

rectification process requires an acknowledgement of the breach, which this letter does not provide.

5 Please advise if you are willing to accept that you have breached the rules and offer an apology for this breach. If you do not feel able to provide this, as explained in my previous correspondence, the rectification process will not be available as a resolution and the matter will have to be referred to the Committee of Standards for their review.

Please respond no later than 15 January 2021.

7 January 2021

10 **17. Letter from The Rt Hon Mark Francois MP to the Commissioner, 11 January 2021**

Thank you for your latest letter of 7 January 2021, which I have now had an opportunity to look at over the weekend.

15 I am sorry if you thought there was some ambiguity in the apology I had offered in my previous letter to you. However, following your investigation and your latest letter and for the absolute avoidance of doubt:

I apologise for breaking the rules regarding the use of House of Commons Letterhead.

20 I hope this provides the clarity you require. In return, perhaps you could now provide me with the estimated timings to bring your investigation into this matter to a conclusion.

11 January 2021