



Parliamentary Commissioner for Standards

**COMMONWEALTH PARLIAMENTARY ASSOCIATION UK
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**SESSION 4 – PRIVILEGE & CONDUCT:
STANDARDS, BEHAVIOUR AND ETIQUETTE**

Welcome to a tale of two systems. It is the best of systems; and it is the worst of systems. Although really, the story of the role of standards in the Westminster Parliament is not so much a tale of two systems, as two completely different and conflicting stories, one of which is cried from the rooftops, and the other of which is rarely told. The one that is rarely told, is infinitely more important than the one that is cried from the rooftops, and so it is with that story that I will begin.

So here is the positive side of the standards system.

The House of Commons has passed for itself for many years now, a Code of Conduct for Members that articulates and codifies the very best of standards of public life, to which the vast majority of MPs commit unwaveringly and sincerely.

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That Code is predicated upon seven principles, which are as recent in their articulation, as they are timeless in their origins and authority. These are the seven Principles of Public Life, first articulated in their present form by the Committee on Standards in Public Life, chaired by Lord Nolan, in its first Report published in 1995.

Those seven principles are: openness and honesty; accountability and integrity; selflessness and objectivity; and leadership in demonstrating them all.

The most important feature of these principles is that they carry equal weight and authority amongst every section of the enormously diverse population that makes up the United Kingdom today. For some people, honesty is a religious obligation. For others, it is a construct of the demands of humanity on itself. For many of us, it is a principle whose origins we may not claim to know, but whose demands we feel with clarity and certainty.

The House of Commons has constructed a Code of Conduct for Members built upon the sure foundation of these timeless principles.

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The Code expresses its purposes as including the aims:

- to build a common understanding of what behaviour and attitudes the House wishes to promote or considers unacceptable;
- to ensure the openness and accountability essential to the proper functioning of a representative democracy;
- to protect and enhance the reputation of the House of Commons, in order that the public can have justifiable confidence in it;
- to ensure that all Members can and do speak and act without fear or favour; and
- to give clarity for Members and the public about the rules of conduct which underpin these standards, which are expected of all Members in undertaking their duties.

For the purpose of achieving these objectives the Code imposes the following obligations on Members: that—

- Members must treat their staff and all those visiting or working for or with Parliament with dignity, courtesy and respect;

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- Members must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
- the acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament;
- Members must rigorously follow the rules on lobbying set out in the Guide to the Rules;
- Members must fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Financial Interests;
- Members must always be open and frank in declaring any relevant interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders;

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- Members must only use information which they have received in confidence in the course of their parliamentary activities in connection with those activities, and never for other purposes;
- excepting modest and reasonable personal use, Members must ensure that the use of facilities and services provided to them by Parliament, including an office, is in support of their parliamentary activities, and is in accordance with all relevant rules;
- Members must not provide, or agree to provide, paid parliamentary advice, including undertaking, or agreeing to undertake services as a Parliamentary strategist, adviser or consultant; and
- Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

Against the background of these inspiring and enduring objectives, I now come to the negative side of the Standards story, the investigation of breaches of the Code and the imposition and enforcement of sanctions. And I make no apologies for leaving this negative aspect of standards until after consideration of the positive, because the former gets all the oxygen it needs from the concentrated attentions of the press, the wider media, and of course, social media.

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And I do not complain of that. It is only natural that people should be outraged by betrayal of trust on the part of politicians, as it is only right that media of all kinds should prevent breaches of trust from being hidden from scrutiny. It is not the fault of the media if a small number of Members of Parliament insist on tarnishing the reputations of the whole by indulging in paid lobbying or other forms of bribery. Nor is it the fault of the media if the result of this and other forms of misconduct has been to reduce the public reputation of politicians as a class to a level that is dangerously low for the safe and secure operation of the rule of law, in a Parliamentary democracy which depends on government by consent.

Nor, of course, is this the fault of the majority of Members who go about their public lives strongly committed to maintenance of high standards. Except perhaps in one small respect: perhaps the majority of politicians have been slightly at fault in being too shy of proclaiming and demonstrating the preponderance of good behaviour to bad. Perhaps this is not surprising, as they may rightly feel that the reputation of the political class as a whole has sunk to such a low level in the United Kingdom that an attempt to justify their own behaviour would fall on deaf ears and indeed rebound against them in cynicism. As a result, therefore, when I took up my role as Parliamentary Commissioner for Standards at the beginning of this year, one of my resolves was to try to create a safe space, in which Members from all sides of the political spectrum could demonstrate their commitment to high standards in public office, articulate and refine best practice, and indeed share their experience and inspire each other.

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To this end, for example, I am commencing a series of seminars in which Members' staff, and then Members, can discuss how the Nolan principles are encoded into the practical realities of day-to-day life in their offices. We will be preparing case studies of best practice which can then be shared with other members and ultimately with the public.

I certainly do not overestimate the potential impact of this and other similar mechanisms for redressing the balance in relation to the reputation of politicians. But I am encouraged by what I have seen so far to believe that it may be able to do some good.

Now the practicalities of the negative side of the system.

Standing Order No. 150 of the House of Commons requires me to investigate allegations of breach of the Code. I can investigate allegations of breaches based on complaints received from anyone, including any member of the public – and I receive a considerable number of such complaints – or I can investigate on my own initiative arising out of matters that come to my attention from the media or elsewhere.

There are significant limitations on my investigatory powers.

The Code recognises that Members are entitled to privacy in relation to their private affairs, and it specifically prohibits me from investigating anything in relation to what Members do in their purely private and personal lives.

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I am also obviously prohibited from investigating anything that is said or done in the course of Parliamentary proceedings (except for a limited role in relation to the declaration of interests) or in the course of the exercise of Members' functions in relation to their constituents (except in the context of conduct that would cause significant damage to the House). So, for example, I am not permitted to intervene in correspondence between Members and their constituents, even to the extent of exhorting members who are dilatory in replying to constituents to engage with them more effectively. Sometimes I wish that I could do that: but I recognise the importance and justice of the Code in keeping me well away from interference in how Members choose to perform – or even to neglect – their functions.

The Code of Conduct adumbrates four sets of practical obligations which are then embroidered in the Guide relating to the Conduct of Members:

- registration of interests;
- declaration of interests;
- a prohibition of paid lobbying; and
- a new prohibition this year of undertaking work as a paid Parliamentary consultant.

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These are in addition to the more open obligations at the beginning of the Code, most notably the requirement already mentioned to avoid conduct that would cause significant damage to the reputation and integrity of the House.

In relation to some of the more specific kinds of breach I have a range of options where I investigate and find that a breach has occurred. In particular, under the Standing Order I have a number of rectification options that are open for me to exercise myself without recourse to anyone else. Most of these are carried out publicly, and the result, whether it be a remedial registration or an apology will be made public. And I do have some powers to enter into private discussions with members in relation to certain kinds of breach and to resolve them in private, for example by giving words of advice, if that seems to me to be the most reasonable and proportionate outcome in all the circumstances.

In relation to other breaches, however, I do not have the power to impose any kind of sanction myself, or, indeed, as of the beginning of this year, formally to make a decision that a breach has occurred. In these cases I must report the matter to the Committee on Standards, a Select Committee of the House of Commons comprising MPs with the addition of a number of lay members. This Committee must take my report, decide whether it confirms my opinion and, where relevant, set a sanction.

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The most important sanction available to the Committee that is not available to me is the sanction of suspension from the House. This is always a significant sanction; but since the passage of the Recall of MPs Act 2015 it has the ability effectively to signal the end of a Member's career. Where a Member is suspended for at least 10 days their constituents can, by a petition signed by at least 10% of the constituents, recall them, which in effect means having them dismissed from the House. So far, three petitions have been triggered under the Act, and two were successful.

There is now an Independent Expert Panel, composed of judges and others with legal experience, which hears appeals by MPs against findings of breaches of the code of conduct by the Standards Committee.

I should also mention that in relation to allegations of bullying, harassment and sexual or other interpersonal misconduct, there is now an Independent Complaints and Grievance Scheme, which is open to all Members of either House, staff of Members of either House, and staff of either House, to complain about Members or any of those other classes. That Scheme employs independent investigators, and in relation to complaints made against MPs investigations are carried out under my oversight and my decision in relation to them is made without reference to the Committee on Standards.

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I will, of course, be more than happy to answer any questions that people may have in relation to the detail of the enforcement side of the Standards scheme. But if you will indulge me, I will end my remarks by bringing us back to the best of times, and saying that I very much look forward during my five years in office to working with parliamentarians around the world in reaffirming the commitment of the majority to the highest of standards in public life, and hopefully, to achieving some degree of success in helping members of public to have a better opinion of the way in which we all strive to serve them.

Thank you very much.

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