



House of Commons

Procedural Protocol in respect of the Code of Conduct

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1 Introduction

1. This Protocol set outs the process for dealing with cases concerning Members' adherence to the Code of Conduct for Members of Parliament.

2. The Code of Conduct states:

The application of this Code shall be a matter for the House of Commons, and particularly for the Committee on Standards and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.

3. Nothing in this Protocol applies directly to the Independent Complaints and Grievance Scheme (ICGS). Information about the ICGS, and the processes in ICGS cases of the Parliamentary Commissioner for Standards and the Independent Expert Panel, can be found on their respective webpages.¹

4. This Protocol is approved by the House of Commons. It has the same authority as the Code of Conduct and the Guide to the Rules.² Minor or purely administrative changes to the Protocol may be made on the authority of the Committee on Standards; major changes, including any changes which impact significantly upon the rights of Members or others, will require the express approval of the House.

5. The House's standards system is based on an inquisitorial process. The Parliamentary Commissioner for Standards, the Committee on Standards and the Independent Expert Panel all follow an inquisitorial process. The test for a breach of the Code is whether the allegation has been proved on the balance of probabilities, that is, that it is more likely than not to have happened.

1 The investigation and adjudication of paragraphs 18 and 21 of the Code, which relate to the Independent Complaints and Grievance Scheme, therefore fall outside the scope of this Protocol.

2 The Protocol includes material which has previously been part of the Code of Conduct for Members or the Guide to the Rules.

2 Allegations under the Code

What allegations can be made

6. The Code of Conduct states:

The Parliamentary Commissioner for Standards may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code.

7. This means that the Commissioner can only accept allegations about breaches of the rules of conduct, **not** about breaches of the Seven Principles of Public Life.

Who can submit an allegation

8. Any individual can submit an allegation of a breach of the rules, including a member of the public or a Member of Parliament.

9. The Commissioner will not accept allegations made by an organisation (for example, on behalf of a business, charity, or local authority) or allegations made anonymously.

10. The Commissioner will not accept allegations made on behalf of another person unless this is agreed as part of a reasonable adjustment for a disability. The Commissioner and their office will make reasonable adjustments whenever possible in order to make the complaints process accessible to all.

Information required when making an allegation

11. An allegation must be made in writing, either in hard copy sent through the post or by email.

12. The person making the allegation must provide:

- a) their full name and postal address. (If the Commissioner opens an investigation, they will share with the Member only the name of the person making the allegation. Address details will be redacted in any correspondence with the Member and any eventual publication. The name of a complainant who is a member of the public will normally be redacted from any eventual publication.)
- b) a clear explanation detailing how they think the Member has breached one of the rules of conduct or rules relating to upholding the Code (the numbered paragraphs in the Code of Conduct).
- c) any evidence available to support their allegation. It is not sufficient to make an allegation and expect the Commissioner to look for supporting evidence.³

13. As a basic courtesy any Member of the House (or a Member of the House of Lords) making an allegation about another Member to the Commissioner must, at the same time, send a copy of their allegation to the Member concerned.

3 Select Committee on Members' Interests, First Report, Session 1992–93, paragraph 4

3 The Commissioner's processes

The role of the Parliamentary Commissioner for Standards

14. The Parliamentary Commissioner for Standards is appointed to investigate allegations of breaches of the Code of Conduct for Members of Parliament. The role and powers of the Commissioner are set out in [Standing Order No. 150](#).

What the Commissioner can investigate

15. The Commissioner can investigate alleged breaches of the rules of conduct, and the associated rules which are set out in the [Guide to the Rules](#), and alleged breaches of the rules relating to upholding the Code.

16. The Commissioner can investigate alleged breaches of the rules for All-Party Parliamentary Groups.

What the Commissioner cannot investigate

17. The Commissioner cannot investigate allegations solely about breaches of the Seven Principles of Public Life.

18. The Commissioner **cannot** investigate the following, unless as part of an investigation into an alleged breach of paragraph 17 of the Code:

- a) policy matters;
- b) a Member's views or opinions, including those expressed on social media;
- c) a Member's handling of or decision about their casework, including their handling of correspondence, whether or not anyone involved is a constituent of the Member.

19. The Commissioner **cannot** investigate in any circumstances:

- a) conduct in the Chamber, which is a matter for [the Speaker](#);
- b) alleged breaches of the scheme for parliamentary expenses, which are matters for the [Independent Parliamentary Standards Authority](#) (IPSA);
- c) allegations of criminal misconduct, which are normally a matter for the police;
- d) the funding of political parties and the permissibility of donations, which are matters for the [Electoral Commission](#);
- e) allegations of breaches of the [Ministerial Code](#), which governs the conduct of government Ministers in their capacity as Ministers and which are matters for the Cabinet Office;
- f) allegations relating to a Member's purely private and personal life.

20. Complaints of harassment, bullying or sexual harassment must be made through the Independent Complaints and Grievance Scheme (ICGS) in the first instance, not to the Commissioner.

Initiating an investigation

21. The Commissioner can start an investigation into an alleged breach of the rules that have been brought to their attention in the following ways:

- a) allegations brought to their attention by a complainant;
- b) matters brought to their attention by the Member concerned (self-referral);
- c) investigations on their own initiative;
- d) matters which arise during the course of an investigation; and
- e) matters referred to them by IPSA and certain other bodies.⁴

22. The Commissioner cannot accept complaints about paragraph 18 of the Code, or the provision in paragraph 21 of the Code that ‘Failure to comply with a sanction imposed by a subpanel of the Independent Expert Panel shall be treated as a breach of the Code’, which are provisions relating to the Independent Complaints and Grievance Scheme.

Accepting or rejecting allegations

23. Before beginning a formal investigation, the Commissioner must first be satisfied that the matter falls within their remit. They will then consider whether the evidence provided is sufficient to justify beginning an investigation. The Commissioner may sometimes ask for more information from a complainant before deciding whether to open an investigation.

24. It is for the Commissioner alone to decide whether a formal investigation would be justified or proportionate. The House has approved the general principle that the Committee on Standards does not seek to direct the Commissioner’s operational decision-making.⁵

25. The Commissioner may ask the Member or third parties straightforward factual questions before reaching a decision on whether to begin a formal investigation. For example, in stationery complaints they may seek confirmation that House-provided stationery was used.

26. If the Commissioner decides to conduct a formal investigation, they will write to the person who has made the allegation and provide them with a copy of this Protocol. The receipt of a complaint or the initiation of an investigation by the Commissioner does not imply that there has been a breach of the rules of the House.

4 Complaints about the misuse of the scheme for parliamentary expenses since May 2010 are a matter for the Independent Parliamentary Standards Authority. However, where the Independent Parliamentary Standards Authority or its Compliance Officer consider that a Member’s conduct justifies it, they shall refer that Member, with the relevant evidence, to the Commissioner for the Commissioner to decide whether to investigate a potential breach of the Code of Conduct and its associated rules.

5 Votes and Proceedings, 7 January 2019; which approved the Committee on Standards’ Fifth Report of Session 2019–21.

27. If the Commissioner considers that:

- a) the allegations fall within their remit;
- b) there is sufficient evidence to justify the initiation of an investigation into whether a Member has breached the Code of Conduct; and
- c) an investigation would be proportionate—

then the Commissioner will initiate the investigation.

28. If the Commissioner decides that:

- a) there is not sufficient evidence of a breach; or
- b) that an investigation would be disproportionate (given the nature and/or relative seriousness of the allegation); or
- c) that the matter falls outside their remit—

then they will not initiate an investigation, and will write to the person who has made the allegation giving brief reasons for their decision.

29. The Commissioner will report briefly to the Committee on formal complaints and allegations submitted.

30. The Commissioner's decision not to conduct a formal investigation is final and cannot be appealed. However, if additional evidence comes to light, the allegation can be resubmitted, and the Commissioner will consider it afresh.

Starting a formal investigation

31. If the Commissioner decides to begin a formal investigation, they will do the following:

- a) Write to the person who made the allegation to tell them of the decision to begin an investigation and explain that their correspondence is confidential and subject to parliamentary privilege.
- b) Send an “initiation letter” to the Member. This will:
 - i) include a copy of the complaint, along with the evidence provided in support of the allegation;
 - ii) set out what will be investigated and provide details of the relevant rules engaged; and
 - iii) inform the Member about the confidentiality requirements that apply to their investigations.
- c) Ask the Member for their response to the allegation, and ask any questions that the Commissioner deems appropriate.
- d) Offer a meeting with the Member at the outset of the investigation.

During the investigation

32. Paragraph 20 of the Code provides that

The Commissioner may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code. Members shall cooperate, at all stages, with any such investigation by or under the authority of the House, and with the Committee on Standards and the Independent Expert Panel in any subsequent consideration of a case. Members must not lobby members of the Committee on Standards or the Independent Expert Panel; the Parliamentary Commissioner for Standards; or the staff of those bodies in a manner calculated or intended to influence their consideration of a breach or a sanction in an individual case.

33. Members should respond personally to the Commissioner during an investigation. The Commissioner will not normally correspond with a legal adviser or other third party responding on behalf of a Member (though Members may take legal advice during an investigation).

34. The Commissioner will disclose to the Member all the evidence she considers as part of an investigation.

Meetings with the Commissioner

35. A Member under investigation may request to meet the Commissioner during the investigation, for example, to ask the Commissioner to explain the procedure of their investigation. Such a meeting may be in person or online. A Member may be accompanied by a legal adviser at any meeting with the Commissioner.

36. The Commissioner will always make a contemporaneous note or a recording of any interview or meeting with the Member and any witnesses (unless the meeting relates solely to a Member's welfare), and agree the accuracy of that note or transcript of the recording with the Member/witness.

Extending scope

37. If, during the course of an investigation, the evidence causes the Commissioner to identify a possible additional breach of the rules, they will draw that to the attention of the Member, setting out the relevant rule(s) and giving the Member a fair opportunity to respond to that specific matter.

Steps the Commissioner may take during an investigation

38. The Commissioner may take any of the following actions during their investigation, at their sole discretion:

- a) Ask the Member follow-up questions during the investigation, in interview, or by letter;
- b) Request the Member to attend for formal interview, either in person or remotely, at any stage;

- c) Seek evidence from witnesses, including any identified by the Member (the Commissioner will normally reimburse the reasonable cost of travel to London by a witness, though lost earnings are not paid);
- d) Consult authorities, such as the relevant Department of the House of Commons or the Registrar of Members' Financial Interests;
- e) Refer a point of principle to the Committee on Standards (before completion of the investigation); and/or
- f) Ask the Committee on Standards to use its powers to summon persons, papers, or records in support of their investigation.

Suspension of investigations

39. The Commissioner has the discretion to suspend investigations at any time. This may, for example, happen if the Member suffers ill health or a bereavement during the investigation, or where a related police investigation is taking place.

40. If Parliament is dissolved or the Member otherwise ceases to be a Member while an investigation is in progress, the Commissioner will suspend their investigation until the Member is re-elected. If the Member is not returned to Parliament, the Commissioner will decide if it is appropriate and proportionate to resume their investigation.

Outcomes of an investigation

41. The Commissioner will not provide details about the progress of the investigation to the person who made the allegation before it is concluded. At the end of their investigation, the Commissioner will write to the Member and the person who made the allegation, informing them of the Commissioner's opinion as to whether there has been a breach of the Code.

42. The Commissioner may take the Seven Principles of Public Life into account when considering whether or not there has been a breach of the Code.

43. There are three possible outcomes of an investigation: the Commissioner may—

- a) consider that there has not been a breach of the Code;
- b) consider that there has been a breach of the Code and conclude the investigation using the rectification procedure; or
- c) consider that there has been a breach of the Code and refer the case to the Committee on Standards for a decision.

No breach

44. If the evidence does not substantiate the allegation on the balance of probabilities, the Commissioner will report that they consider that there has been "no breach".

45. The letter containing the outcome, the Commissioner’s reasoning, and the evidence relevant to that investigation, will be published on the Commissioner’s webpages, unless the procedure set out in paragraph 46 is adopted. The Commissioner will notify the Committee on Standards when they report on a case where there has been “no breach”.

46. The Commissioner may decide to submit a memorandum to the Committee into an allegation where the Commissioner considers there has been no breach. This may be because of the particular seriousness of the allegation or because the investigation raises matters of wider interest or relevance. The Committee will then consider the Commissioner’s conclusions and submit its own report to the House.

Rectification

47. If, on the balance of probabilities, the evidence demonstrates a breach of the rules, the Commissioner will report that they consider that there has been a breach of the Code.

48. In circumstances defined by Standing Order No. 150(4), the Commissioner may then conclude the investigation using the rectification procedure, without making a referral to the Committee on Standards.

49. The rectification procedure can only be used for some rules in the Code of Conduct. Concluding an investigation through rectification requires that a Member agrees with the Commissioner’s opinion that there has been a breach, and takes any remedial action that the Commissioner considers appropriate. The Commissioner will require an apology from the Member as part of any rectification.

50. If the Member does not agree with the Commissioner’s opinion that there has been a breach of the Code, or does not undertake (or agree to undertake) the remedial action, then the Commissioner will refer the case to the Committee on Standards.

51. The actions open to the Commissioner to require as part of any rectification procedure include:

Remedial action	Details
Words of advice to the Member	Either informal or formal
Written apology	
Apology on a point of order	
Correction and annotation of the Register of Members’ Financial Interests	Normally required where a registered interest has been subject to the rectification procedure.
Repayment of money	Normally required where House-provided resources have been misused or wrongly claimed, for example, stationery or room bookings.

52. The letter containing the outcome, the Commissioner’s reasoning, and the evidence relevant to that investigation, will be published on the Commissioner’s webpages. The Commissioner will notify the Committee on Standards when they conclude an investigation through the rectification procedure.

Referral to the Committee on Standards

53. If the Commissioner considers that, in their opinion, there has been a breach of the Code, but that:

- a) it is unsuitable for the rectification procedure; or
- b) the Member does not accept their opinion that there has been a breach; or
- c) the investigation raises issues of wider importance—

then the Commissioner must make a referral to the Committee on Standards.

54. The referral will take the form of a memorandum. In the memorandum, the Commissioner will report their opinion on issues of fact and their opinion as to whether there has been a breach of the Code. The Committee will then decide whether there has been a breach of the Code (see Chapter 4).

55. Before sending a memorandum to the Committee, the Commissioner will provide the Member with an opportunity to comment on the draft of the factual sections of any written evidence or memorandum.

56. The Commissioner will give careful consideration to any comments received by the Member. However, the final decision on the contents of the memorandum is a matter for the Commissioner alone. The Commissioner will append to the memorandum all the evidence which they have received and considered in the investigation.

4 The Committee's processes

The role of the Committee on Standards

57. The Committee on Standards is a select committee, appointed under Standing Order No. 149. The role of the Committee is to adjudicate on standards cases, to oversee the work of the Parliamentary Commissioner for Standards and to consider policy relating to standards.

58. It is for the House, and not the Committee, to make final decisions on what standards it expects of its Members and therefore the House agrees the Code of Conduct and the Guide to the Rules, as well as this Protocol.

59. The Committee's remit and powers are set out in Standing Order No. 149.

Meetings of the Committee

60. The Guide to the Rules provides that:

[...] a Member who has a personal interest which may reflect upon the work of the Committee or its report should stand aside from the Committee proceedings relating to it.⁶

61. Any member of the Committee who is the subject of an investigation by the Commissioner or who is otherwise connected to an investigation in such a way as to have a personal interest in it should withdraw from relevant proceedings.

62. Meetings of the Committee on Standards to deliberate on individual cases are conducted in private. If oral evidence is taken in an individual case, whether from the Member concerned or witnesses, the Committee's usual practice is to take this in private. A transcript (redacted at the Committee's discretion) will always be produced and will usually be published alongside the eventual report.

63. The Commissioner will not be present when the Committee deliberates on an individual case (but may be present for other items on the Committee's agenda at the same meeting), nor will the Commissioner make an oral statement to the Committee on the contents of the memorandum. If the Committee requires further information in relation to a case, the Committee Clerk will send a request to the Commissioner. Any further information received from the Commissioner will be shared with the subject Member by the Clerk.

Reports from the Commissioner and subsequent actions by the Committee

64. A copy of the Commissioner's memorandum, once received by the Committee, is sent in confidence by the Clerk to the subject Member.

65. The Clerk will invite the Member to submit written evidence and ask them if they wish to request to give oral evidence. Whether to accept such a request is at the discretion of the Committee, but the Committee will normally agree to any such request; and may in certain instances require the Member to attend to give oral evidence.

66. A Member who gives oral evidence is entitled to be accompanied by a legal representative or representatives, but they may only privately advise the Member, not address the Committee.

67. The Committee will not draw an adverse inference from a Member choosing not to submit written evidence at the outset of the Committee's consideration of the case, or choosing not to request to give oral evidence. The Committee may, however, draw inferences from a Member failing or refusing to provide written evidence, or refusing to appear to give oral evidence, where this is requested or ordered by the Committee.⁷

Initial discussion by the Committee

68. The Committee will not consider a case substantively before it has received written evidence from the Member (where they have indicated that they wish to provide written evidence).

69. When the Committee begins substantive consideration, it will hold an initial discussion. At its initial discussion the Committee will consider procedural issues which may include (but are not limited to):

- a) Whether it is satisfied that the Commissioner has conducted a proper investigation and has provided it with all the information it requires;
- b) If it wishes to ask the Commissioner for further information;
- c) Any request from a Member to give oral evidence;
- d) Any representations from the Member to take oral or written evidence from specified witnesses or to put specified questions to witnesses; and
- e) Whether it wishes, exceptionally, to seek written or oral evidence from other witnesses.

Decision on a breach

70. The Committee will normally make a provisional decision on whether there has been a breach of the Code to assist the Chair in producing a draft report for consideration at its next meeting. The Committee's decision on whether there has been a breach, and if so on whether to impose or recommend to the House any sanction, is formally taken, however, at the point it agrees its report.

Publication of the Committee's report

71. The Committee publishes its decision by means of a Report to the House. The Commissioner's memorandum and any written evidence from the subject Member is

appended to the Committee's Report and published with it. Evidence accompanying the Commissioner's memorandum, any transcripts of oral evidence, and any further written evidence, is published on the Committee's webpages.

72. The Committee will make every effort to publish its reports on individual cases as quickly as possible, subject to the need for fair treatment of all concerned.

73. By authority of the Committee, embargoed copies of its reports are made available to the Member concerned, as well as to a complainant if they are an injured party, one hour before publication.

74. Embargoed copies are not made available to the press, and no advance notice is given to the press of publication, but the Committee normally issues a press notice at the same time that the report is published.

Dissolution

75. If Parliament is dissolved during the Committee's consideration of a case, it will resume its consideration once the Committee is re-established, whether or not the subject Member has been returned at the election.

Witnesses

76. The Liaison Committee has stated that, while it is right for witnesses to be tested on their competence, all witnesses should be able to give their best evidence and treated with courtesy and respect.

77. Where the Committee takes oral evidence from a witness, the Clerk will make the necessary arrangements with the witness and, where appropriate, will inform a witness of the impending publication of the Committee's report.

5 Sanctions

78. If the Committee decides that there has been a breach of the Code, it will normally impose or recommend to the House a sanction.⁸ It is open to the Committee to decide that there has been a breach but that there should be no further action.

Possible sanctions

79. The sanctions the Committee may impose on its own authority include (but are not limited to):

- a) an apology in writing, which would normally be published, or on the floor of the House by means of a point of order or a personal statement;
- b) requiring a Member to attend training, or to repay money;
- c) withdrawal of services and facilities from a Member, and imposing other personal restrictions including on travel, where this will not affect the core functions of a Member;⁹
- d) for non-Members, subject to the approval of the Speaker, withdrawal of Parliamentary passes, either indefinitely or for a fixed period.

80. The Committee may also recommend remedial action which is open to the Commissioner to require as part of the rectification procedure (see Chapter 2, paragraph 51).

81. The Committee may recommend the following sanctions for decision by the House:

- a) withdrawal of services and facilities from a Member, and imposing other personal restrictions including on travel, where this will affect the core functions of a Member,¹⁰ and where the sanction affects the nature of the offence;
- b) dismissal from a select committee;
- c) suspension from the service of the House for a specified period (during which time the Member receives no salary and must withdraw from the precincts of the House);
- d) withholding of a Member's salary or allowances even if the Member has not been suspended;
- e) in the most serious cases, expulsion from the House.

⁸ An updated suite of sanctions was agreed by the House on 19 April 2021.

⁹ The core functions of a Member are defined as (a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents. If the Panel or the Committee is in any doubt as to whether a sanction would interfere with core functions, they would be expected to seek the views of the House authorities where appropriate, and to err in their decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter. See Committee on Standards, Twelfth Report of Session 2019–21, Sanctions and confidentiality in the House's standards system: revised proposals (HC 1340), Annex, footnote 16.

¹⁰ See previous footnote.

82. In all but exceptional circumstances, in a case where the Committee decides that paragraph 17 of the Code has been breached,¹¹ it will recommend that the House sanction such a breach through suspension or expulsion.

83. While it is for the House itself to decide on the matters set out in the list above, its practice has been to accept the Committee's recommendations on sanctions.

84. The “core functions” of a Member, referred to in paragraphs 79 and 81, are defined as “(a) participation in the formal proceedings of the House or its committees, and (b) their ability to communicate with and make representations on behalf of their constituents”. The House has decided that if the Committee is in any doubt as to whether a sanction would interfere with core functions, they would be expected to seek the views of the House authorities where appropriate, and to err in their decision on the side of caution, i.e. to recommend that imposition of a sanction should be decided by the House itself if there is any reasonable doubt about the matter.¹²

Motions consequent on reports of the Committee

85. Where the Committee has recommended a sanction that requires a decision of the House and:

- a) the Member has confirmed to the Chair of the Independent Expert Panel that they do not wish to appeal; or
- b) the deadline for appeals has lapsed; or
- c) the Panel has dismissed the appeal; or
- d) the Panel has recommended a different sanction that requires a decision of the House—

the relevant motion shall be taken on the floor of the House, without debate or amendment, within five sitting days.

11 Paragraph 17 of the Code provides that: 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.

12 See Committee on Standards, Twelfth Report of Session 2019–21, Sanctions and confidentiality in the House's standards system: revised proposals (HC 1340), Annex, footnote 16; and Votes and Proceedings, 19 April 2021, item 9.

6 Appeals

Submission of appeals

86. A Member may appeal to the Independent Expert Panel (the Panel) against a decision by the Committee on Standards (the Committee) that they have breached the Code of Conduct and/or on the appropriate sanction to be imposed for that breach.

87. Appeals must be submitted in writing by the Member, in a form consistent with any guidance issued by the Panel, to the Chair of the Panel by 4.00 pm on the tenth working day following the day of publication of the relevant report by the Committee. The Chair of the Panel may vary this deadline if there are extenuating circumstances.

88. The Chair of the Panel will notify the Chair of the Committee that either an appeal has been made; that a Member has confirmed that they will not make an appeal; or that the deadline for appeals has lapsed. If the Committee's recommended sanction requires a decision by the House, the Chair of the Panel will also notify the Speaker and the Leader of the House whether an appeal has been made or not.

89. The appeal must be brought under one or more of the following grounds:

- a) The investigation by the Parliamentary Commissioner for Standards was materially flawed in a way that affected the decision of the Committee;
- b) The process followed by the Committee was procedurally flawed;
- c) The decision of the Committee was unreasonable and/or, in relation to a sanction, disproportionate;
- d) Credible fresh evidence has become available, which could not have been presented before the Committee made its decision, and which, if accepted has a real prospect of affecting the outcome; and/or
- e) Exceptionally, there is another compelling reason that an appeal should be heard or allowed.

An appeal on ground (c) cannot be based simply on disagreement with the findings of fact in the case.

Management of appeals

90. The Chair of the Panel will appoint a sub-panel of three members of the Panel (the sub-panel) to decide an appeal. If appropriate, he may decide to appoint the same sub-panel to consider appeals from several different appellants together.

91. It is for the sub-panel, once appointed, to decide on how best to manage a case in accordance with Standing Orders, this Protocol, and any guidance for appellants published by the Panel. Appellants must comply with any directions given by a sub-panel.

92. The sub-panel will first consider whether the issues raised in an appeal fall within one or more of the grounds for appeal and whether there is any substance to the grounds. If it decides that there are substantive grounds for appeal, it will then reach a conclusion on the merits.

93. Appeals will normally be decided based on written submissions. The sub-panel may, exceptionally, decide to hold an oral hearing with an appellant where there is a specific reason for doing so.

94. As with the Committee, Members may not be represented in front of a sub-panel, and must make any submissions or representations to the Panel or a sub-panel themselves (unless otherwise agreed as a reasonable adjustment). Members may take legal or other advice in preparing an appeal, and may be accompanied at any oral hearing.

95. If Parliament is dissolved during an appeal, the Panel would resume the appeal once the new Parliament meets, unless the subject Member indicates that they no longer wish to proceed with the appeal.

Outcome of appeals

96. A sub-panel may:

- a) Dismiss an appeal; or
- b) Uphold an appeal in full or part.

97. For each decision against which a sub-panel upholds an appeal it may decide to:

- a) Remit the decision back to the Committee for further consideration or investigation; or
- b) Substitute its own decision for the Committee's (whether on breach or on sanction).

98. It is for the sub-panel to decide on the facts of the case whether it is appropriate and proportionate for it to remit a decision to the Committee or to substitute its own.

99. Exceptionally, the sub-panel may increase a recommended sanction to reflect further aggravating factors in relation to events subsequent to the Committee's decision; or if it finds that an original decision that has been appealed was unduly lenient.

100. A decision by a sub-panel may not be appealed further.

Publication of reports

101. The sub-panel's decision on the appeal and their reasons will be notified to the Chair of the Panel. The Chair of the Panel will normally publish them in a Report to the House once they are received, with any relevant submissions, written evidence, and the transcript of any oral hearing appended.

102. The Chair may decide to redact, summarise, or delay publication of, all or parts of a sub-panel decision or the associated submissions and evidence if appropriate. This may

be in order, for example, to protect sensitive personal or medical information or to avoid prejudicing further investigations the Committee may request because of the decision. In these circumstances a full copy of the decision will be provided to the appellant(s), and the Committee.

7 Confidentiality and privilege

Parliamentary privilege and the Commissioner

103. Communications between a member of the public and the Commissioner are not covered by parliamentary privilege unless and until the Commissioner has accepted the matter for investigation.

104. Once the Commissioner has accepted a matter for investigation, the evidence given to that investigation and any related correspondence, including any electronic communication, is covered by parliamentary privilege.

105. A person making an allegation is not protected from legal action (for example, for defamation of character) unless and until the Commissioner decides to begin an investigation. Even then, parliamentary privilege will protect only the material given to the Commissioner. It will not protect anything said to others.

106. Evidence given to the Commissioner and correspondence about the investigation should generally not be made available to anyone other than the Commissioner. If any related material were to be published or disclosed to anyone else without the Commissioner's agreement, that may be treated as a contempt of the House. Any other material made public may not be covered by parliamentary privilege.

107. Any person asked to give or provide evidence by the Commissioner should cooperate fully and frankly with the Commissioner in the public interest and in the interests of justice. Any attempts to obstruct an investigation may be treated as a contempt of the House of Commons.

Parliamentary privilege, the Committee and Panel

108. All the Committee's proceedings are covered by parliamentary privilege.

109. It is a breach of privilege, or a contempt, for committee proceedings to be disclosed before they have been reported to the House. This applies to:

- a) the content of a committee's private deliberations;
- b) written evidence submitted to a committee until it is in the public domain;
- c) oral evidence given to a committee until it is in the public domain; and
- d) draft reports prior to their publication.

110. The work of the Independent Expert Panel in hearing appeals under the Code of Conduct is similarly covered by parliamentary privilege.

Publication of material by the Commissioner

111. The Commissioner publishes on their webpages the names of Members currently subject to investigation, alongside brief details of the paragraph(s) of the Code of Conduct

it is alleged a Member has breached.¹³ The Commissioner would normally allow time for the Member to receive notice of the inquiry before making these details available on their webpages.

112. The Commissioner will not at any time discuss details of an allegation or an investigation with third parties.

113. The Commissioner publishes all the relevant evidence gathered during an investigation on their webpages if the outcome of the investigation is “no breach” (unless the procedure in paragraph 46 is followed), or if they conclude the investigation through the rectification procedure.

114. Where a memorandum has been submitted to the Committee, but the Committee has not yet concluded its consideration of the case, the Commissioner will not publish any information about the matter. The Committee, rather than the Commissioner, will publish the memorandum and accompanying written evidence when it publishes its report.

115. The Commissioner will normally publish copies of all the correspondence received during the investigation and transcripts of any oral evidence given during a formal interview.

116. The Commissioner will redact the personal data of individuals other than the Member(s), who are referred to in written evidence packs or a memorandum, unless this information is already in the public domain, and they will consider requests to redact further personal or sensitive information from the Member or (where relevant) witnesses.

Confidentiality during a Code of Conduct case

117. From the point that the Commissioner opens an investigation, the Member may only share details of the investigation with:

- a) a very limited number of friends or family members; and/or
- b) a specific whip who can advise and support them during an investigation; and/or
- or
- c) a legal or medical adviser; and/or
- d) a Member’s own staff.

118. These conditions apply until the outcome is published, whether by the Commissioner or the Committee. The conditions apply again during the period of an appeal, until the final outcome is published by the Panel.

119. The conditions also apply during the period of a reconsideration by the Committee, in the event that the Panel remit a case following an appeal, until the new outcome is published by the Committee.

120. The Member should ensure that anyone with whom they share information about the investigation or consideration of the case is also aware that the matter remains confidential, and they should not discuss the matter with anyone else.

121. Evidence given to the Commissioner during an investigation, any related correspondence, and any evidence given to the Committee or Panel during their consideration of the case, remains confidential unless and until it is published by the Commissioner, the Committee or the Panel.

122. Individuals who have made allegations of misconduct should also respect the confidentiality of the investigation and should not share information with the media while an investigation is ongoing.

Correcting misreporting

123. In circumstances where significantly incorrect information about the allegation has been made public, the injured party (the subject Member, or a complainant where relevant) may apply to the Commissioner for permission to issue a public rebuttal; if the Commissioner agrees to such a rebuttal it must be factual, not argumentative, as brief as possible, and its text must be agreed with the Commissioner in advance.

Confidentiality requirements for members of the Committee on Standards

124. What is said and done at private meetings of the Committee on Standards is strictly confidential and should not be disclosed to others—including a Member's own staff—without the express authority of the Committee. All committee papers are confidential to the members and staff of the Committee (and to the Commissioner and their staff) unless and until they are published by the Committee's authority.

Lobbying in relation to breaches of the Code or sanction

125. Paragraph 20 of the Code provides that:

The Commissioner may investigate a specific matter relating to a Member's adherence to the rules of conduct under the Code. Members shall cooperate, at all stages, with any such investigation by or under the authority of the House, and with the Committee on Standards and the Independent Expert Panel in any subsequent consideration of a case. Members must not lobby members of the Committee on Standards or the Independent Expert Panel; the Parliamentary Commissioner for Standards; or the staff of those bodies in a manner calculated or intended to influence their consideration of a breach or a sanction in an individual case. This rule does not prohibit a Member from making representations to the Commissioner in respect of their own individual case.