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Standards, Procedures and Public Appointments Committee

**Comataidh Inbhean, Dòighean-obrach is Cur-an-dreuchd
Poblach**

Code of Conduct for MSPs – proposed revisions to Rules on Confidentiality of the Complaints Process



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Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland;
- (e) matters relating to the regulation of lobbying; and
- (f) matters relating to Scottish general elections falling within the responsibility of the Cabinet Secretary for Government Business and Constitutional Relations.



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Introduction

1. The Parliament's Standing Orders provide for the Parliament to lay down a Code of Conduct (the Code) for its members. The Code contains rules which are statutory requirements and some rules which are non-statutory and were created by the Parliament to produce a comprehensive set of standards that must be adhered to. Alleged breaches of the Code are investigated, in most cases, by the Commissioner for Ethical Standards in Public Life in Scotland.

Background

2. The Committee published a [report](#) on 14 November 2018 in which it committed to review the Code of Conduct with the aim of strengthening its rules on confidentiality of documents and the disclosure rules relating to MSP complaints. This work was undertaken in response to the appearance in the media of reports about complaints which were being considered by the Committee. The Committee stated that “reporting of and commentary about details of complaints prior to and during the Committee’s consideration can unhelpfully overshadow the Committee’s work and may discourage victims from coming forward in the future”. ¹

Consultation

3. All MSPs were consulted on the draft changes. One view was expressed, namely that “it would be unfair for them [MSPs] to be penalised if a rogue employee were to breach confidentiality”. While it is the case that the Code of Conduct holds MSPs responsible for the behaviour of their staff, any investigation into a complaint about an MSP’s misconduct would establish the facts which would allow members to take any mitigating factors into account in coming to a decision on a sanction.

Conclusion and Recommendation

4. The Code of Conduct revisions attached to this report have been made to strengthen and clarify existing provisions about the disclosure of complaints and confidentiality in general. MSPs have been consulted on the proposed revisions. The Committee believes that the revised wording will help to avoid situations in the future where the media are reporting on cases under confidential consideration by the Committee.
5. The Committee recommends that the Parliament agrees the changes to the Code of Conduct as set out in Annexe A.

Annexe A - Proposed Code of Conduct changes to Confidentiality and Disclosure Rules

[Link to the proposed changes to the Code of Conduct \(116KB pdf\)](#)

- 1 [Confidentiality of Reports from The Commissioner For Ethical Standards in Public Life in Scotland](#), Para 15.

