

**Explanatory memorandum for the motions relating to Standards: Appeals and Procedural Protocol; and Standing Orders etc. (Committee on Standards, Parliamentary Commissioner for Standards, Independent Expert Panel)**

**Overview**

These motions relate to recommendations made by the Committee on Standards in its First and Second Reports of this Session,<sup>1</sup> and the Government response.<sup>2</sup>

The Committee recommended to the House a proposed new Code of Conduct, a proposed new Guide to the Rules, and a Procedural Protocol which included provision for an appeals system in Code of Conduct cases.

The motions tabled by the Government:

- Agree the principle of an appeals process in Code of Conduct cases, and the recommendations the Committee on Standards has made relating to appeals and the Procedural Protocol in its First Report (HC 227) and Second Report (HC 378) of this Session;
- Approve the Procedural Protocol annexed to the Committee’s Second Report, subject to amendments;
- Make changes to Standing Orders No. 149, No. 150, No. 150A, No. 150B and No. 150E in order to give the Independent Expert Panel the necessary powers to conduct appeals and to reflect as appropriate the contents of the Procedural Protocol or other recommendations made by the Committee in relation to the process for investigating and adjudicating on breaches of the Code of Conduct for Members.

The motions do not amend the Guide to the Rules relating to the Conduct of Members (except to provide that Chapter 4 of the Guide shall no longer have effect – see below); and amend the Code of Conduct for Members only in one consequential respect: to extend the prohibition on lobbying members of the Committee on Standards, in paragraph 20 of the Code, to the Parliamentary Commissioner for Standards (consequential on the removal of Chapter 4 from the Guide to the Rules, where this provision currently sits), and the Independent Expert Panel (since the IEP will now play a role in adjudicating on Code of Conduct cases alongside the Committee and the Commissioner).

**Background**

The recommendations on procedure and appeal made by the Committee on Standards followed a review of fairness and natural justice in the House’s standards system by Sir Ernest Ryder, former Senior President of Tribunals and Lord Justice of Appeal (Committee on Standards, Sixth Report of Session 2021–22, HC 1183).

In its First Report of this Session, *New Code of Conduct and Guide to the Rules: promoting appropriate values, attitudes and behaviour in Parliament* (HC 227), the Committee on Standards stated: “We recommend that a formal route of appeal in non-ICGS cases against both the findings and any sanctions imposed by the Committee be set up, and that the appellate body should be the Independent Expert Panel” (paragraph 151). The Committee also stated: “We accept Sir Ernest’s

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<sup>1</sup> Committee on Standards, First Report of Session 2022–23, *New Code of Conduct and Guide to the Rules: promoting appropriate values, attitudes and behaviour in Parliament* (HC 227) and Committee on Standards, Second Report of Session 2022–23, *Code of Conduct: Procedural Protocol* (HC 378)

<sup>2</sup> Committee on Standards, First Special Report of Session 2022–23, *Government Response to the Committee’s First, Second and Third Reports* (HC 709)

proposal that detailed information about the House’s standards procedures should be incorporated in one document, plainly and accessibly written” (paragraph 130). The Committee’s proposed Procedural Protocol is appended to its Second Report of this Session, *Code of Conduct: Procedural Protocol* (HC 378).

### First motion

The text of the proposed Procedural Protocol contained in the Committee’s Second Report contained references to the new Code of Conduct proposed by the Committee. Subsections (2)(a)-(f), (h), and (j) of the motion make consequential amendments to the Committee’s proposed text of the Procedural Protocol, to ensure that cross-references refer to the relevant sections of the current Code, since the Committee’s proposed new Code has not yet been considered or agreed by the House.

Subsections (2)(i) and (2)(g) make two additional amendments to the Committee’s proposed text of the Procedural Protocol, which reflect the Government’s response to the Committee’s First, Second and Third Reports (First Special Report of Session 2022–23, HC 709), namely, to add Members’ staff to the list of individuals with whom a Member may share details of an investigation; and to leave out the requirement that a member of the Committee on Standards take no further part in a case if they have been absent for “anything other than a very small proportion of the Committee’s deliberations or evidence-taking” in that case.

The motion also gives the Committee on Standards a power to make any minor or purely administrative changes to the Procedural Protocol, including those necessary to reflect any future decisions of the House relating to the Code of Conduct and the Guide to the Rules relating to the Conduct of Members. It also provides that Chapter 4 of the Guide to the Rules relating to the Conduct of Members (HC (2017-19) 1882), which contains the current process approved by the House for investigating and adjudicating on breaches of the Code, no longer has effect, since it is being replaced by the Procedural Protocol.

### Second motion

The changes to Standing Order No. 149 give the Committee on Standards a power to communicate evidence and other information to the Independent Expert Panel in relation to a case that has been appealed; and provides that motions to implement a sanction recommended by the Committee (or the Independent Expert Panel where it recommends a sanction following an appeal) are taken forthwith and may be taken at any hour (though opposed), in a similar way to motions in ICGS cases (HC 227, paragraph 169).

The changes to Standing Order No. 150 give the Commissioner greater flexibility in the action she may require as part of a rectification of a breach of the Code of Conduct (HC 378, paragraphs 10–14), allow the Commissioner to rectify breaches of the rules relating to All-Party Parliamentary Groups (*ibid.*), and remove the provisions relating to investigatory panels (HC 227, paragraph 142).

The changes to Standing Orders No. 150A and No. 150B give the Independent Expert Panel the necessary powers to enable it to conduct appeals in Code of Conduct cases.

The change to Standing Order No. 150E provides that the provisions of that Standing Order, in relation to the Recall of MPs Act 2015, also apply to cases where the Independent Expert Panel recommends a sanction different to the one recommended by the Committee in a Code of Conduct case (HC 227, paragraph 166).

Dr John Benger

Clerk of the House

17 October 2022