

Independent Expert Panel

Appeal by Margaret Ferrier MP

Presented to the House of Commons
pursuant to House of Commons Standing Order No 150A

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The Independent Expert Panel

The Independent Expert Panel was established by resolution of the House of Commons on 23 June 2020. The Panel:

- Hears appeals against decisions made by the Parliamentary Commissioner for Standards (the Commissioner), and considers referrals from the Commissioner and determines sanctions in cases involving an allegation against an MP of a breach of Parliament's Sexual Misconduct Policy or the Bullying and Harassment policy, under the Independent Complaints and Grievance Scheme; and
- Hears appeals against decisions by the Committee on Standards in cases involving an allegation against an MP of a breach of the Code of Conduct for Members of Parliament.

Current membership

Mrs Lisa Ball
Monica Daley
Mrs Johanna Higgins
Sir Stephen Irwin (Chair)
Professor Clare McGlynn KC
Miss Dale Simon
Sir Peter Thornton KC
Dr Matthew Vickers

Powers

The Panel's powers are set out in House of Commons Standing Orders Nos 150A to 150D. These are available on the internet via www.parliament.uk.

Publication

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Report by the Chair of the Panel

- 1.1 The Independent Expert Panel (the Panel) was established by resolution of the House of Commons on 23 June 2020. The Panel:
- Hears appeals against decisions made by the Parliamentary Commissioner for Standards (the Commissioner), and considers referrals from the Commissioner and determines sanctions in cases involving an allegation against an MP of a breach of Parliament’s Sexual Misconduct Policy or the Bullying and Harassment policy, under the Independent Complaints and Grievance Scheme; and
 - Hears appeals against decisions by the Committee on Standards in cases involving an allegation against an MP of a breach of the Code of Conduct for Members of Parliament.
- 1.2 The Panel is guided by the principles of natural justice, fairness for all, transparency and proportionality. We are rigorously independent, impartial and objective, acting without any political input or influence.
- 1.3 This is a report of the decision of the Panel on an appeal by Margaret Ferrier MP (the Appellant) against the decision on recommended sanction of the Committee on Standards (the Committee), in its Ninth Report of Session 2022–23 (HC 1276) published on 30 March. The full written appeal submission is printed as an appendix at the back of this Report. I have redacted certain elements of that submission to protect personal or sensitive data. In addition, Ms Ferrier provided a note from the NHS in relation to the new evidence that she wished the sub-panel to consider. I have decided not to publish that letter but we have included Ms Ferrier’s covering letter to that submission as a further appendix, in order to provide some context. Again, that has been redacted to protect an individual’s name. Finally, Ms Ferrier provided a further written submission to support paragraph 29 of her appeal submission. That has also been included as an appendix to this Report.
- 1.4 The Committee found that Ms Ferrier had breached the rule relating to resolving conflicts between personal interest and the public interest as well as the rule against causing significant damage to the reputation and integrity of the House of Commons: breaches of paragraphs 11 and 17 of the 2019 Code of

Conduct (the Code).

- 1.5 The Committee recommended Ms Ferrier be suspended from the service of the House for 30 days for the breaches.
- 1.6 On 17 April 2023, Ms Ferrier lodged a notice of appeal by email and written submission. I appointed the following sub-panel to consider his appeal:
- Ms Monica Daley
 - Miss Dale Simon
 - Sir Peter Thornton KC (chair of the sub-panel)
- 1.7 For the reasons set out in its decision, section 2 of this Report, the sub-panel dismissed Ms Ferrier’s appeal at the first stage of appeal, that, while the grounds fell broadly within the grounds of appeal as set out in the Procedural Protocol, none of the grounds had substance and the sanction imposed was neither unreasonable nor disproportionate.
- 1.8 One further point to note arises from this case. The exact sequence of events was of obvious importance. No doubt with that in mind, on the day after he was alerted to the problem by the Appellant, the SNP Chief Whip asked for a detailed timeline of events. As the Committee reported, the Appellant provided this to the Chief Whip but was not willing to provide it to the Commissioner during his investigation. Nor was it provided to the Panel during the appeal.
- 1.9 There are robust procedures in place to ensure that sensitive information is treated appropriately and kept private. Such procedures would have been (and have been) followed in this case.
- 1.10 There is a very clear obligation to Members, whether complainants or respondents, “to cooperate...with [an] investigation by or under the authority of the House”,¹ an obligation re-stated when the Code was updated in 2022, as follows:

Members must co-operate at all times with the Parliamentary

¹ The Code of Conduct HC (2019–19) 1882, paragraph 20

Commissioner for Standards in the conduct of any investigation and with the Committee on Standards and the Independent Expert Panel in any subsequent consideration of a case.²

1.11 The obligation to cooperate applies fully even where the information requested, or indeed any relevant information, may be against the interest of the Member. Inconvenient information must not be withheld. A failure to cooperate may be taken into account on sanction.

1.12 **The Committee's recommended sanction is upheld.**

1.13 I make this report to the House pursuant to Standing Order No. 150A(5)(d).

Sir Stephen Irwin
22 May 2023

² The Code of Conduct HC (2022–23) 1083, paragraph 12

Decision of the sub-panel

Introduction

- 2.1 This is an appeal against sanction. The Committee on Standards (the Committee) decided that Margaret Ferrier MP (the Appellant) was in breach of the Code of Conduct of the House of Commons (the Code) and recommended that she be suspended from the service of the House for 30 days.³
- 2.2 The conduct in question concerned events in late September 2020, at a time when Covid-19 restrictions were in place and Parliamentary guidance had been issued to MPs. The Appellant, who was then the Scottish National Party (SNP) Member for Rutherglen and Hamilton West,⁴ failed to comply with the restrictions and the guidance. On 1 October 2020 she referred herself to the Parliamentary Commissioner for Standards (the Commissioner) for possible breaches of the Code.
- 2.3 On 13 September 2022, in respect of the same conduct, the Appellant was convicted before the Glasgow Sheriff Court of culpable and reckless conduct. Thereafter, following an investigation, the Commissioner concluded on 28 March 2023 that the Appellant had breached two paragraphs of the Code.⁵ In the Commissioner's opinion, these significant breaches demonstrated a failure to apply several of the Nolan principles which underpinned the Code. The Commissioner therefore referred his Memorandum to the Committee.
- 2.4 The Committee reported on 28 March 2023. It upheld the Commissioner's opinion that there were breaches of the Code and recommended suspension.
- 2.5 The Appellant now appeals to the Independent Expert Panel (the Panel) against that recommendation. She does not appeal against the findings that

³ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276

⁴ She was an SNP MP for this constituency from May 2015 and May 2017, and from 12 December 2019, but lost the SNP whip on 1 October 2020 when her conduct came to light. She now sits as an independent MP.

⁵ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, Appendix 1

she was in breach of the Code.

- 2.6 As is normal practice, the Commissioner's Memorandum, the Committee's Report and the evidence are published on the Committee's webpages.⁶

The Committee on Standards

- 2.7 The following facts, which are not disputed by the Appellant, are taken verbatim from the Committee's report (paras.5-11):

In September 2020, during the COVID-19 pandemic, there was guidance in place in England and Scotland that those with COVID-19 symptoms, or who had tested positive for COVID-19, should self-isolate for a period of 10 days. The parliamentary guidance in place on 28 September 2020 was that "anyone who was experiencing COVID symptoms should not be on the estate and they should not travel to the estate if they have symptoms, if they were awaiting results of a COVID-19 test, again they should not travel until they receive the results of that test".

On Saturday 26 September 2020, Ms Ferrier, having developed symptoms of COVID-19, took a COVID-19 test. The following day she attended church and had lunch with a family member.

On Monday 28 September 2020, Ms Ferrier travelled to Glasgow Central Station by taxi and took a train to London. She attended the House, taking part in a debate, and ate in the Members' Tearoom. She received a text that evening informing her that she had tested positive for COVID-19. Ms Ferrier consequently informed the SNP Chief Whip that she would be returning to Scotland the next morning, giving as the reason that a family member was unwell. She did not disclose her test result to her Chief Whip. Ms Ferrier then travelled by train to Glasgow the following morning.

On Wednesday 30 September 2020, Ms Ferrier contacted the SNP Chief Whip to advise him that she had tested positive for COVID-19, but did not state when she had taken the test or when she became

⁶ Committee on Standards, Second Report of Session 2022–23, *Code of Conduct: Procedural Protocol*, HC 378, paragraph 72

aware that she had tested positive. Ms Ferrier also made contact with the parliamentary test and trace team. Ms Ferrier had not answered four calls from the NHS Scotland Test and Protect team during her train journey (telling the Commissioner that she did not think it was a “suitable and secure environment to be answering a series of sensitive, confidential questions”), but answered a call on her arrival at home.

On Thursday 1 October 2020, Ms Ferrier received a text message from the SNP Chief Whip asking for a timeline of events, which she provided to the Chief Whip but which she was not willing to provide to the Commissioner during his investigation. Ms Ferrier reported a breach of COVID-19 regulations to Police Scotland, after being asked to do so by a senior member of the SNP leadership team.

On the same day, Ms Ferrier wrote to Kathryn Stone, the then Parliamentary Commissioner for Standards, referring herself for investigation under the Code of Conduct for Members. She stated:

I am deeply concerned that my actions may have brought the House into disrepute, as well as letting down the constituents who placed their faith in me to serve as their voice in this House.

The Commissioner’s investigation was suspended during the period of the criminal investigation into Ms Ferrier’s conduct. Ms Ferrier was subsequently convicted of “culpable and reckless conduct”, to which she pled guilty. She was sentenced on 13 September 2022 to a Community Payback Order, under which she was required to undertake 270 hours of unpaid work.

2.8 The Committee considered the Commissioner’s opinion that the following paragraphs of the 2019 Code of Conduct had been breached:

Paragraph 11

Members shall 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.

Paragraph 17

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.

- 2.9 As to paragraph 11, which the Appellant disputed before the Committee, the Committee concluded that the Appellant was in breach. By choosing to return home rather than self-isolate in London, as required by national restrictions and the House's guidance, Ms Ferrier had acted selfishly in her personal interest and in defiance of the public interest.⁷
- 2.10 As to paragraph 17, which the Appellant admitted, the Committee referred to the Appellant's conviction before the Glasgow Sheriff Court for 'culpable and reckless conduct' and the judge's sentencing remarks that '[a] high degree of recklessness is needed, more than carelessness or negligence ... You accepted having acted with an utter disregard of the consequences of your conduct on the public ...'.⁸ The Committee also cited with approval the Commissioner's opinion that the Appellant's actions contributed to a general public feeling that 'MPs do not consider themselves bound by the rules that they make or approve for others'.⁹ The Committee further approved the Commissioner's opinion that the Appellant's delay in notifying the result of her positive test not only put staff members and colleagues at risk, but also 'demonstrated a disregard for the integrity, selflessness and leadership values expected from Members generally'.¹⁰
- 2.11 The Committee concluded that the Appellant was in breach of paragraph 17. Her actions knowingly and recklessly exposed members of the public and those on the Parliamentary estate to the risk of contracting Covid-19 and demonstrated a disregard for the Parliamentary and national guidance in place. She acted dishonestly by misleading her Chief Whip and delaying

⁷ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, paragraph 29

⁸ Office of the Parliamentary Commissioner for Standards, *Written Evidence from Margaret Ferrier*, pages 17–18

⁹ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, paragraph 31

¹⁰ *Ibid*, paragraph 32

the Parliamentary test and trace team. In doing so, she caused significant damage to the reputation of the House. Similarly, her breach of the criminal law had also caused significant damage to the reputation of the House. The breach of paragraph 17 was proved.¹¹ The Committee concluded that any breach of paragraph 17, with a finding that a Member's actions had brought the House into disrepute, had to be considered a serious breach of the Code.¹²

2.12 Before coming to a conclusion on sanction, the Committee also considered carefully the aggravating factors and mitigating factors: see below.

2.13 By way of decision on sanction, the Committee recommended to the House that the Appellant be suspended from the service of the House for 30 days.¹³

Grounds of appeal against sanction

2.14 On 17 April 2023 the Appellant lodged grounds of appeal in writing. On 12 May 2023 the Panel, through a nominated sub-panel, heard further representations from the Appellant at an oral hearing. The Appellant appeals against the length of the suspension.

2.15 The grounds of appeal can be summarised as follows:

Ground 1

The decision of the Committee on Standards was unreasonable and/or, in relation to the sanction, disproportionate.

The recommended sanction is too severe, unduly harsh. In addition to the Appellant's overall submission that the period of 30 days for the suspension was too long, the Appellant also made a number of specific points:

(1) the Committee did not give due consideration to the Appellant's self-referral to the Parliamentary Commissioner on Standards;

(2) the Committee did not give due consideration to her hard work as an

¹¹ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, paragraph 34

¹² *Ibid*, paragraph 39

¹³ *Ibid*, paragraph 40

MP and impeccable Parliamentary record;

- (3) the Committee did not give due consideration to the judge's sentencing remarks on her good character and dedication as an MP; the Appellant has suffered double jeopardy and a breach of natural justice from the Committee's reliance upon the judge's sentencing remarks about her misconduct;
- (4) the Committee was also deprived of the opportunity to consider the question of double jeopardy as a mitigating factor, because the Commissioner removed a recommendation to the Committee on double jeopardy from the final draft of his Memorandum;
- (5) the Committee voted to suspend her for 30 days, but only by a small majority; and
- (6) it was unfair to recommend a sanction that automatically triggered the process under the Recall of MPs Act 2015.

Ground 2

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.

Ground 3

Exceptionally, there is another compelling reason that an appeal should be heard or allowed, namely the credible fresh evidence (above).

Procedure

2.16 Appeals to the Panel are a two-stage process: ¹⁴

- (1) The sub-panel will first consider whether the issues raised fall within one or more of the grounds for appeal (as set out in the Procedural Protocol) and whether there is any substance to the grounds.¹⁵

¹⁴ Committee on Standards, Second Report of Session 2022–23, *Code of Conduct: Procedural Protocol*, HC 378, paragraph 92

¹⁵ Committee on Standards, Second Report of Session 2022–23, *Code of Conduct: Procedural Protocol*, HC 378, paragraph 89

(2) If the sub-panel decides that there are substantive grounds for appeal, it will then reach a conclusion on the merits.

2.17 The sub-panel accepts that the three grounds of appeal fall broadly within the grounds of appeal as set out in the Procedural Protocol. The issue therefore is do any of the grounds have ‘substance’? And if so, what conclusion should the sub-panel reach ‘on the merits’?

Analysis

Ground 1

2.18 The Appellant makes a number of submissions in support of her claim that the sanction was too severe. We will deal with each of these in turn and then consider the overall sanction.

2.19 *Self-referral*—The Appellant claims that her self-referral to the Commissioner was a mitigating factor. The Commissioner thought it might be,¹⁶ but the Committee did not.¹⁷ The Committee concluded that if the Appellant had not self-referred ‘it seems extremely likely that somebody else would have done so’. We agree. On the day of her self-referral, 1 October 2020, the sequence of events suggests that the full exposure to the public of her misconduct was imminent, if it had not already happened, and a referral to the Commissioner from someone was therefore fast-approaching:

(1) At about 4-4.30pm the Appellant had a Zoom call with the Chief Whip and other senior members of the SNP. She was advised to inform Police Scotland. She was also informed that the SNP was going to give the story to the Press Association.

(2) At about 4.30pm she informed Police Scotland.

(3) At 5.30pm she put out a statement on Twitter apologising unreservedly for breaching Covid-19 restrictions.

(4) At about 6.30pm the SNP removed the SNP whip (the Appellant has

¹⁶ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, appendix 1, paragraph 70

¹⁷ *Ibid*, paragraph 38

been an independent MP since).

- 2.20 It was not until 8-8.30pm that she wrote to the Commissioner, self-referring for possible breaches of the Code. We have no doubt that she had, by this time, little choice but to self-refer. There is no substance in this point.
- 2.21 *Good character as an MP*—There is no reason to believe that the Appellant was anything other than a conscientious and hardworking MP, doing the best for her constituents and raising issues of importance in the House. She claims that the Committee gave her insufficient credit for all of this. We do not agree with her submission. The public rightly expects all MPs to be of good character, to work hard on behalf of their constituents and to engage actively in the House. MPs are expected to be held to a high standard of conduct as well as honesty. When Members fall short of that conduct, the trust and confidence in Parliament and its Members are undermined. There is no substance in this point.
- 2.22 *The judge's sentencing remarks*—The Appellant claims that the Committee gave undue weight to the sentencing remarks of the judge in the Sheriff Court about the offence itself and gave insufficient weight to the sentencing remarks in her favour, particularly in relation to good character. We do not agree. This is little more than the previous point re-stated. The judge acknowledged the Appellant's good character, both as an MP and as a person who had not previously offended, and found it to be one of the reasons for not imposing a custodial sentence.¹⁸ & ¹⁹ The Committee had the whole of the judge's sentencing remarks before them to consider. They were entitled to use the judge's sentencing remarks, after a full hearing in court, in order to assess the culpability of her conduct. As to good character, we emphasise, as before, that MPs are expected to be of good character. That is the norm. There is no substance in this point.
- 2.23 *The sentence of the Sheriff Court and double jeopardy*—The Appellant further claims that the recommended sanction amounts to double jeopardy, since she has already been penalised by the Sheriff Court. We do not agree. There is no double jeopardy here. The criminal proceedings in the

¹⁸ Office of the Parliamentary Commissioner for Standards, *Written Evidence from Margaret Ferrier*, pages 19

¹⁹ The sentence was a Community Payback Order of 270 hours unpaid work.

Sheriff Court and the workplace disciplinary proceedings (which the Appellant now faces) are quite different. The one decides at a public hearing the sentence for the crime of culpable and reckless conduct. The other decides how the conduct should be measured and sanctioned in the workplace. What elements of the Code have been proved and, if so, what action should be taken in the workplace context?

- 2.24 Just as the criminal conviction of a professional person may indicate whether that person ought not to be permitted to practise, or, alternatively, whether a lesser sanction may be sufficient, so too here. The findings of fact and opinion of the Sheriff Court can properly inform the disciplinary process. They may indicate, for example, the seriousness of the Appellant's conduct. But there is no question of double jeopardy, nor of a breach of natural justice.
- 2.25 The essence of this disciplinary process is in any event not punishment. The objective is the maintenance of public confidence in the reputation of the House and the integrity of its Members. It is acknowledged that the Appellant has worked hard and diligently on behalf of her constituents. She has not offended against the Code before and had glowing tributes to her placed before the Sheriff Court. The Appellant is also hugely apologetic and remorseful for her conduct. This has undoubtedly been a distressing and humiliating experience for her and has affected her personally, as well as her family. All these matters are, of course, relevant and should be considered. But none of them, singly or in totality, can override the essential objective. The reputation of the House will always be more important than the consequences for an individual MP.
- 2.26 And in considering the reputation of the House, the issue of dishonesty will inevitably rise towards the top end of the spectrum of gravity of misconduct. In this case, the Appellant has been dishonest. When she travelled to London she did not know whether she was infectious with Covid-19 or not. She had taken a PCR test because she might have been. She did not, however, tell anyone in the House that she had taken a test. And when she was notified that the test was positive, she did not tell anyone in the House. She did not tell the Parliamentary test and trace team. She did not tell the SNP Chief Whip. On the contrary, she told the Chief Whip that she was returning to Scotland the next day because a family member was unwell.

That was not true. It dishonestly disguised the fact that, contrary to regulations and guidelines, she was going to travel back to Scotland on public transport while knowingly infected with the virus. On the train back to Glasgow she deliberately refused to respond to four calls from the NHS Scotland Test and Protect team. When she got home and informed the Chief Whip that she had tested positive, she failed to say when she had taken the test and when she was informed that she was positive. This is not one momentary error of judgment. It is a sequence of events amounting to a deliberate course of dishonest behaviour.

2.27 Further, to the extent that the Committee's decision may have included any punitive element, it is notable that the Committee did take account of the criminal sentence imposed by the judge as a mitigating factor.²⁰ The Commissioner had invited the Committee to do so.²¹ The Committee was right to do so.

2.28 *The Commissioner's Memorandum on double jeopardy*—As is normal practice, the Commissioner, before finalising his Memorandum, provided the Appellant with a draft for her to check its factual accuracy. In that draft he referred to his consideration of 'the following factors'.²² One of them suggested that 'in selecting a sanction for her breach of the Code, the Committee will wish to avoid appearing to breach the rule against double jeopardy and will wish to address only the reputational Code issues for the House with which the criminal courts will not have been concerned.' In the final draft, the Commissioner headed the revised paragraph as 'factors which the Committee may wish to take into account by way of mitigation'. The three factors were revised, each into a shorter version. The relevant factor now read: 'Ms Ferrier has already been convicted and sentenced by the criminal court in Scotland.'

2.29 The Appellant raised this point with the Panel only days before the oral hearing. In our view there is nothing of substance in it. The draft sent to the Appellant was not a final draft. The Commissioner was entitled to amend any part of his analysis and he did so. The Appellant was informed of that.

²⁰ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, paragraph 37a

²¹ *Ibid*, appendix 1, paragraph 70

²² *Ibid*, appendix 1, paragraph 69

In inviting her comments on the factual accuracy of the draft, the Commissioner wrote that ‘the content of my memorandum is a matter for me alone’.²³ All three of the ‘factors’ were shortened, but none was removed. None of them was dependent upon factual accuracy. The point about the sentence of the criminal court remained. What is more, the point, far from being ignored by the Committee, as the Appellant claims, was taken into account as one of the mitigating factors.²⁴

- 2.30 *The Committee’s majority vote*—There is no substance in the Appellant’s point. It appears that she is suggesting that a decision of the Committee, which is not unanimous but by a majority, somehow lessens the effect of the decision and in some way mitigates the sanction. But that cannot be right. The decision is not less of a decision because it is not unanimous. It is still the decision and must stand as the decision.
- 2.31 We understand that it is a long-established practice for committees, when voting, to decide by a simple majority. As with votes in the House,²⁵ the decision of a committee is taken by a simple majority; a majority of one vote is enough. Select Committees, for example, including the Committee on Standards, are regarded as extensions of the House and governed for the most part in their proceedings by the same broad rules as those which prevail in the House.²⁶ The Appellant will be familiar with this practice. There is no substance in this point.
- 2.32 *The process of the Recall of MPs Act 2015*—The Appellant claims that it would be unfair to submit her to this process. Her argument is that some, including the Committee in this case, have suggested that the operation of the Act requires review.²⁷ That is not a matter for us as a sub-panel. That is a matter for Parliament. Parliament passed the 2015 Act; Parliament can revoke it or amend it, as Parliament sees fit. But it is not for a sub-panel to make or amend decisions as some form of approval or criticism. There is nothing in the Act or Standing Orders or the Procedural Protocol to suggest

²³ See appendix 3

²⁴ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, paragraph 37a

²⁵ Erskine May, 25th edition, paragraph 20.63

²⁶ Erskine May, 25th edition, paragraphs 38.14 & 38.23

²⁷ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276, paragraph 41

that the Recall Act should play any part in our considerations. It is irrelevant to our decision. There is no substance in this point.

- 2.33 *The overall sanction*—We will consider whether the sanction of 30 days suspension is unreasonable or disproportionate below (at paragraphs 2.46–53).

Ground 2

- 2.34 *Fresh evidence*—The Appellant puts forward ‘fresh evidence’ in support of her appeal. In short, she asserts that the details of her health condition led her to panic and make poor decisions, particularly after she knew her test was positive. She makes this claim, not on the basis that either her condition or her medication made her panic, but that she panicked because she felt her condition might be affected adversely by the virus²⁸ and because it might be difficult to obtain her medication if she had to self-isolate in London. These factors, she claims, should be considered as mitigating factors.

- 2.35 Fresh evidence is admissible in an appeal only in the following circumstances:²⁹

- (1) the evidence must be credible,
- (2) it must be fresh, in the sense that it could not have been presented before the Committee made its decision, and, if accepted,
- (3) it must have a real prospect of affecting the outcome of the appeal.

- 2.36 We say at the outset that this evidence is not fresh. It could have been presented before the Committee and, indeed, to some extent, it was.

- 2.37 The Appellant was fully aware of her long-standing condition when she gave evidence in writing to the Commissioner. Indeed, she presented her concerns to the Commissioner about her medical condition and obtaining medication on two separate occasions.³⁰ The Appellant also acknowledged

²⁸ We believe this point was raised for the first time at the oral hearing.

²⁹ Committee on Standards, Second Report of Session 2022–23, *Code of Conduct: Procedural Protocol*, HC 378, paragraph 89d

³⁰ Office of the Parliamentary Commissioner for Standards, *Written Evidence from Margaret Ferrier*, pages 6 & 13

that the Committee had considered the issue.³¹ Her claim now is that the Committee did not give sufficient weight to this point ‘because the severity of my condition was not clear’.³² In our view, however, this evidence is not fresh because the Appellant had the clear opportunity to take the issue further with the Commissioner and the Committee but chose not to.

- 2.38 We have referred in this decision to the Appellant’s medical condition and her medication. We shall not provide further details because it is not necessary to do so. Similarly, in publishing the written evidence—while we note that normally the identity of a medical (or any other) expert should be made public—to protect the confidentiality of the Appellant as to her medical condition, we will refer to her specialist consultant simply as Dr D.
- 2.39 In addition, the Appellant now presents an expert report from a consultant (dated 5 May 2023). We are grateful for it. We will not go into the details of the report, except to say that the report does no more than explain what the Appellant’s condition is, and that it is under control, in part from medication which she has been taking for over five years on a ‘maintenance therapy’ basis and which may now, according to the consultant, be reduced and phased out altogether. There is nothing in the report to suggest that either the condition or the medication itself could lead to panic or confused decision-making. In our view, this report is not fresh evidence. It could have been obtained for the Commissioner and the Committee, but the Appellant chose not to do so.
- 2.40 We are therefore bound to conclude that the evidence is not fresh and is therefore not admissible. There is nothing of substance in this ground.
- 2.41 In any event, we would not have concluded that the evidence (from the Appellant and the consultant), if admitted, could have had any prospect of affecting the outcome of the appeal. We are not persuaded by the Appellant’s submission that the evidence, if admitted, would have affected the Committee’s decision if they had known more about it. Her claim that she panicked and made poor decisions because of it is barely credible. It seems to us that there was no clear element of panic in the Appellant’s actions. No doubt she was upset and distressed, but she decided,

³¹ See appendix 1, paragraph 37

³² Ibid

recklessly, that she would travel to London and the House before she knew the result of the test. She decided when she knew it was positive that she would be more comfortable isolating at home with the support of her family. She decided to take a taxi, a train and a tube before she got the results of the test. She decided to take a tube and a train when she knew the result was positive. This does not look like panic. It looks more like a deliberate choice to take risks.

2.42 She also referred to the difficulty she would have faced in trying to obtain her specific medication if she had self-isolated in London. It is true that this may not have been easy, but it would not have been impossible. She had been faced with a shortage of medication when in London on a previous occasion and had still managed to obtain it, albeit with some difficulty.

2.43 In short, we are not impressed by the point that the details of her medical condition led to ‘intense panic’, as she puts it, and ‘poor decision-making’. We are satisfied that she had made the decision to go home, if the test was positive, without telling anyone. That was not just a poor decision, it was a seriously dishonest one, putting the public at risk of infection.

2.44 We therefore conclude that there is no substance in this ground.

Ground 3

2.45 The Appellant claims that exceptionally, there is a separate compelling reason that an appeal should be heard or allowed,³³ namely the fresh evidence that her medical condition led her to panic and make poor decisions. In essence this ground is no more than Ground 2 under a different heading. The Appellant relies upon the ‘fresh evidence’. There is nothing additional relied on for this submission. For the reasons set out above for dismissing Ground 2, we also dismiss this ground. There is nothing exceptional in this ground. There is no substance in it.

The overall sanction

2.46 Finally, we must consider whether the suspension for 30 days is

³³ Committee on Standards, Second Report of Session 2022–23, *Code of Conduct: Procedural Protocol*, HC 378, paragraph 89e

unreasonable or disproportionate. Is there any substance in this point?

2.47 We have already found no substance in a number of specific claims by the Appellant for mitigating factors which the Committee did not take into account, or at least not sufficiently. Nevertheless, we must decide whether there is merit in the Appellant's overall submission.

2.48 First, we consider the aggravating factors as found by the Committee. We set these out in full:

- (1) Ms Ferrier's failure was not a single misjudgement, but a series of deliberate actions over several days;
- (2) Ms Ferrier's actions demonstrated, in particular, a lack of honesty, one of the Seven Principles of Public Life;
- (3) Others, both across the country and within the Parliamentary community, made significant sacrifices in order to follow the rules and guidance during the Covid-19 pandemic;
- (4) Ms Ferrier knowingly exposed others to risk, including staff working on the Parliamentary estate, both by attending the House and by failing to notify the House authorities of her positive test result, and exposed members of the public to risk when travelling; and
- (5) Ms Ferrier's actions constituted a breach of the criminal law for which a 'high degree of recklessness' was needed.

2.49 Next, we consider the mitigating factors as found by the Committee. We set these out in full:

- (1) Ms Ferrier has received a criminal penalty for her actions, of 270 hours of unpaid work;
- (2) Ms Ferrier expressed her remorse for her actions during her trial and her "[bitter] regret" to the Commissioner; and
- (3) Ms Ferrier has experienced considerable personal distress in relation to this matter.

- 2.50 We agree with the Committee's approach. We have considered the aggravating and mitigating factors carefully in the light of all the circumstances in this case, including the Appellant's written and oral representations. For the purpose of deciding the appropriate sanction for breaches of the Code, the Committee is well-placed for these purposes as an informed and expert body. We will not lightly interfere with their decision on sanction. Under the Procedural Protocol, we will do so only if the Committee's decision is unreasonable or disproportionate. We do not find that to be the case here.
- 2.51 This has undoubtedly been a distressing and humiliating experience for the Appellant, as we have said above. She is hugely apologetic and remorseful for her conduct. The consequences for her and her family have been dire. In our judgment, however, the Appellant failed to conduct herself in accordance with the standards of conduct expected of individual MPs. She acted with blatant and deliberate dishonest intent. She acted with a high degree of recklessness to the public and to colleagues and staff at the House of Commons. She acted selfishly, putting her own interests above the public interest. There could therefore be no lesser sanction for this conduct.
- 2.52 Taking all these matters into account, we are satisfied that there is no substance in the Appellant's grounds. The first stage of the appeal process has not been met. The sanction imposed was neither unreasonable nor disproportionate.
- 2.53 For these reasons this appeal is dismissed.

Appendix 1: Written appeal submission

Email from Margaret Ferrier MP to Sir Stephen Irwin, Chair, Independent Expert Panel, dated 17 April 2023

Dear Sir Stephen

This document sets out the grounds of my appeal against the recommendations of the Parliamentary Committee on Standards on my case, published in their Ninth Report on 30 March 2023.

I am appealing on the following grounds, as set out in the Procedural Protocol:

- 1) The decision of the Committee was unreasonable and/or, in relation to a sanction, disproportionate;
- 2) 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
- 3) Exceptionally, there is another compelling reason that an appeal should be heard or allowed.

I will address each ground of appeal in more detail further into this document.

Part of my appeal will relate to sensitive and very personal medical information, which I am sharing with the Independent Expert Panel in strict confidence. I ask that any details relating to my personal medical history are redacted from any publication following this appeal.

I would also like to say from the outset that, while I accept that my action constituted a breach of the Code of Conduct, I have been honest and transparent about my failings from the beginning – I have the utmost respect and appreciation for both Parliament and my constituents and I have spent the past two and a half years trying to convey this. I understand that another, more high profile case on a similar matter is also being heard at the moment, which the media has sought to conflate with my own, and this has not been helpful.

I appreciate that this process is not a rehearing of the facts of the case. However, I feel it is important to note that although I made a mistake – and I accept, it was a very big mistake – it is one I have paid for very dearly over the past few years, reputationally, emotionally and financially. It is not indicative of my character more generally.

Should the Panel have any questions about my submission, please let me know. If the Panel feel that they would like to hold an oral hearing, I am happy to appear.

Yours sincerely,

Margaret Ferrier MP

Member of Parliament for Rutherglen and Hamilton West

17 April 2023

Part 1: Recommended Sanction

1) I do not contest the Committee's findings that my actions breached paragraphs 11 and 17 of the 2019 Code of Conduct. While I maintain that I never knowingly placed personal interest above the public interest, as set out in my evidence, I respect and accept the findings of the Committee in this regard.

2) The basis of my appeal under this ground, therefore, relates to the severity of the recommended sanction ultimately decided by the Committee, that I am suspended from the House for a period of 30 sitting days. As it is convention for the Committee's recommendations to be agreed when voted on by Members, this will trigger the Recall of MPs Act 2015. I believe this sanction to be unduly harsh and disproportionate.

3) The Committee divided on the proposed sanction, with a proposed amendment to a suspension from the House for a period of 9 days, with a period of a further 30 days without salary, and an apology to the House. This had support from several Committee members across the political spectrum. I understand that it is unusual for the Committee to be so divided in these matters, and this indicates that the final sanction only marginally had majority support.

Mitigating Factors

4) It is my opinion that the Committee did not give due consideration to a number of mitigating factors that could have influenced the outcome and sanction.

5) Despite the Standards Commissioner accepting my self-referral at a very early stage to be a mitigating factor, the Committee did not. The Committee asserted in their report that this was not mitigation because if I had not referred myself, someone else 'almost certainly would have'.

6) This was an unfair assumption because there have been a number of other cases during this Parliament that we might have expected to see put through this process that were not. This includes two Members who received criminal convictions, and another Member who openly admitted to travelling home via public transport because they did not wish to self-isolate.

7) I would also like to take this opportunity to clarify a misunderstanding the Committee had relating to my evidence that contributed to their assertion that someone else would have referred me if I had not done so myself. From the report:

The Commissioner has noted that Ms Ferrier made “a self-referral at an early stage”. We cannot, however, consider this an entirely voluntary act, since this was on the same day that Ms Ferrier had been asked by the SNP leadership to report herself to the police under threat of being reported to the press.

From my evidence to the Commissioner:

I was asked to report the breach of Covid19 regulations to Police Scotland by a senior member of the SNP leadership team, on a Zoom call on 01/10/20 held between 4-4:30pm. There were others on that call, including Patrick Grady the Chief Whip and a member of the SNP Westminster Press Team. I was also advised that the SNP were going to give the story to the Press Association.

8) For clarity, I did not refer myself to the police nor the Parliamentary Standards Commissioner under threat of the story being reported to the press. During the Zoom call referenced, a number of things were discussed, including my public statement. I understand why my wording here may have been unclear in hindsight – where I mentioned the SNP giving the story to the Press Association, this related specifically to my public statement, which they wished to amplify. This was not a threat, but something I agreed to as I wanted it to be clear that I admitted to my mistake and wished to rectify that through the right processes. At the time that my statement was handed to the Press Association by the SNP, the story was already public and I had already tweeted the statement out. At the time I referred myself to the Commissioner, the whip had already been removed and I had no reason to self-refer other than a genuine, personal wish to do so.

9) I would also like to be clear that the reason I did not disclose the contents of the email between myself and the then SNP Chief Whip is because it contained sensitive health information about a close family member. For their privacy, I do not wish to circulate the contents of that email any further than it already has been, particularly owing to the intense media scrutiny of every aspect of my case over the past two and a half years.

10) I am disappointed that the Committee did not consider my continued hard work as a Member of Parliament on behalf of my constituents as a mitigating factor in their report, which I believe to be an important indication of my character generally and evidences the respect I have for my role and my constituents.

11) Although the Committee relied on the Sheriff's judgement in my court case as an aggravating factor, quoting parts in their report, they did not reference to an important aspect of the Sheriff's statement that reflected on my character and dedication as an MP more generally. The explicit inclusion of this part of his judgement would have balanced the others the Committee relied upon in reaching their decision. I have replicated this part of the Sheriff's statement below, emphasis my own:

I have read carefully the many references that have been given in support of you and the terms of the criminal justice social work report. I have listened carefully to, and take full regard of, all that has been said on your behalf by senior counsel this morning. **It is clear that you have made a significant contribution to society in your work as a Member of Parliament and otherwise.** I recognise that you are remorseful and have shown insight in relation to your offending. **I recognise also the consequences for you, as a result of your behaviour – behaviour which it appears was entirely out of character.**

12) I have an impeccable parliamentary record – I attend every week, Monday through Thursday, and some sitting Fridays. While I recognise that this is my job, my level of participation in parliamentary business is almost unmatched among my colleagues. Just before the Easter Recess, it was mentioned to me that I am currently the Member with the second highest number of contributions at oral question sessions.

13) In the last year alone, April 2022 to April 2023, I have made 354 spoken contributions and voted 155 times. Since my election in 2019, I have made 678 spoken contributions and voted 528 times. This puts me as one of the highest contributing MPs and evidences my continued dedication to my work and my constituents.

14) As an Independent MP, I do not have the benefit of any 'party machine' to assist me in my duties. I do not receive any early notification of upcoming business, including Urgent Questions and Ministerial Statements, or votes, through the Usual Channels. I do not receive any support from a party research team in drafting parliamentary questions, speeches, or responses to constituents. This means that my small team of staff and I have to work much harder to deliver a high-quality service to constituents – a record that I am incredibly proud to have maintained despite the difficulties of the past two and a half years.

15) In terms of casework, I am incredibly close to the cases dealt with by my office and have worked crossbench to secure results for my constituents – an example of which

would be securing the first visa of its kind for an “unaccompanied minor” fleeing Ukraine, something that was only achieved after weeks of engagement with Ministers and the Home Office.

16) Unlike many of my colleagues, I ensure that every lobby email sent by constituents on policy issues and campaigns, are read and responded to in comprehensive detail. I receive a huge number of these emails, over 100 each week, and each receives a personal response.

17) I am very grateful to my loyal and dedicated staff, who have continued to deliver on a huge workload in this time of adversity and wish to place this on record. I do not know if the Committee considered the impact that the sanction imposed would have on my staff, but I carry an immense amount of worry that the current sanction will lead to five redundancies at the height of a cost-of-living crisis.

18) It is my opinion that, in reaching a more balanced conclusion, the Committee should have given greater consideration to my record as a hard-working backbench MP.

19) In the minutes of the Ninth Report, the following amendment was suggested by Alberto Costa MP:

Amendment proposed, in line 1, after “mitigating factors:” to insert “a) Ms Ferrier was a woman on her own in London, not her home city. There were no family or close friends to assist her. Her actions were not designed to enrich her or give her any form of benefit in kind. Her behaviour and judgement was directly affected by her distress and panic in her health condition and loneliness;”.

Again, I understand it is unusual for the Committee to be so divided, and it was only by a small margin that the decision was taken not to include this – the implication being that a substantial number of Committee members believed this should have been considered and placed on record. I will provide more detail about why I believe my health condition should have been given greater weight in Part 2 of my appeal.

Recall of MPs Act 2015

20) As referenced above, if the sanction is upheld this will trigger the Recall of MPs Act 2015, and a recall petition will be opened in my constituency.

21) In the Committee's report it states:

In arriving at the decision on sanction, the Committee has had to take account of the effect of the Recall of MPs Act 2015. The recommended sanction, if approved by the House, will trigger the possibility of recall. We believe the operation of the Act requires review.

22) In 2019, the Electoral Commission set out a number of recommendations relating to the operation of the Recall of MPs Act 2015. The Electoral Commission called on the UK Government to "review the policy and legislation for recall petitions to identify changes that would improve the experience for electors and the administration of future petitions". The Government have not yet done so, and this is unlikely to be a priority ahead of the next General Election.

23) Among the issues identified by the Electoral Commission were that the time a petition is open for is too long, a lack of clarity in the processes around signing places and the final count, limitations on electoral observation, and issues with registered campaign spending.

24) Specifically, to these points about registered campaign spending and the length of petition, political parties have already started to undertake intense campaigning in my constituency, which began the same day the report was published, 30 March. This means that although the recall petition process itself is six weeks, it would be significantly longer than that in reality. Media reporting portrays a byelection as a foregone conclusion.

25) Because of the confidential nature of the appeals process, I have been unable to speak up or challenge some of the assertions made about me. The tone of some of the campaigning in my constituency by opposition parties has been extremely inflammatory and has left me concerned about both personal security and the security of my staff, who I had to ask to work from home in the immediate aftermath of the report's publication for this reason. I am very concerned at how this will escalate in the coming weeks if a recall petition is opened particularly as I live within my constituency, and this is well known.

26) The inclusion of the Committee's statement on these findings within this report would suggest that they believe the current recall petition process to be flawed, and in need of review and change.

27) As the recommended sanction would automatically trigger this process, it is my belief that it would be fundamentally unfair to trigger a process that the Electoral Commission, and the Standards Committee itself, believes to be flawed and in need of significant changes.

Separation of Judicial and House Processes

28) The Committee's report rightly states that "The House's standards system and the criminal justice system are separate; and the purposes, relevant rules, and sanctions available for each are different."

29) In the report the Committee rely heavily on the Sheriff's judgement in my legal case as part of their argument for the stronger sanction and refer to the aggravating factors mentioned by the Sheriff (as mentioned in Para 11). However, the legal case was not concerned with the reputational code issues for the House and using the comments from that case to support a higher sanction in this case could be seen as breaching the rules of natural justice and the principle of double jeopardy. Furthermore, if the Committee were inclined to refer to the Sheriff's comments in my case, then it could be argued that they should have considered his comments in their entirety to include the very strong mitigation that he also described when passing sentence in the criminal court. To omit this could be prejudicial. The Committee have not fully considered the mitigation in the present case that should be granted in respect of my voluntary self-referral (see para 8 above). I am effectively being punished twice in two separate processes with aggravating factors from both being conflated here without the counterbalance of the full mitigating factors present. Given I had already received a community penalty to work 270 unpaid hours in the community, I submit that the rules of natural justice would also dictate that this punishment for my errors should have properly been taken into account by the Committee when administering its sanction and not simply mentioned as a mitigating factor.

30) The Committee then make a comparison to what the consequences may have been if I were a public sector employee, without considering the differences in employment rights between an elected Member and, for example, a civil servant. In a traditional employment setting, there is a duty on the employer to conduct an investigation, hold the hearing and decide on disciplinary action in a short and reasonable time period. Lack of relative public profile would have meant that the additional pressure of intense media interest and invasion of privacy would not have occurred. There would be greater job security in general, because the postholder

would not be decided by the public during the electoral cycle. Options such as a compromise agreement would be available. The Employment Tribunal System would be available for possible appeals against decisions believed to be unfair or discriminatory. They are two very different scenarios, to which the report draws a rather straightforward, but very incomplete and I would submit a flawed comparison. There are currently well documented cases of civil servants having breached Covid regulations that have not been dismissed.

Disparity of Sanction

31) There are no directly comparable cases to my own in terms of specifics. However, there have been a number of cases where a suspension has been recommended on the back of investigations under the ICGS. In these cases, unlike mine, direct harm or distress was caused through Members' actions towards members of the parliamentary community. Despite these cases relating to campaigns of bullying and sexual harassment, recommended sanctions have only resulted in suspensions of a few sitting days.

32) In a recent non-ICGS case, where the Member was found to have placed inappropriate pressure on the former Standards Commissioner, the sanction was still significantly lower.

33) I have accepted responsibility for my errors and been open and transparent about my conduct. I offered myself to be held to account by the Parliamentary process. I voluntarily referred myself to the Commissioner and could have chosen not to do so (see para 7 and 8 above). Where other colleagues have chosen not to do this and where there has not been a referral made by a third party, those individuals have been able to avoid accountability and/or sanction altogether. In my opinion, the excessive punishment I believe I have been given sends a message that the confidential nature of the referral process favours those who decide not to choose accountability and gives no credit to those that do. I would submit therefore that greater weight should have been given to my decision to self-refer as it shows adherence to the spirit of the rules and does not seek to avoid accountability. It sends a positive message to the public when an MP self refers under a voluntary system, and it sends a negative message when they do not. The excessive punishment I have been given will not encourage others to follow my example. I am not trying to avoid sanction but feel the one decided upon is overly harsh in all the circumstances.

34) The severity of the sanction applied in my case is disproportionate in comparison to those given in other, arguably more serious, cases.

Part 2: New Evidence

35) In this section it is necessary for me to disclose some incredibly personal and sensitive medical information. I request that the Panel do not share this aspect of my appeal any further than absolutely necessary and that none of this information is placed in the public domain at any point.

36) If this aspect of my appeal cannot be heard under the ground that “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” then I am requesting it is considered under the ground that “exceptionally, there is another compelling reason that an appeal should be heard or allowed.”

37) The Committee did not give much weight to my explanation that an underlying health condition and access to medication played a part in my panic and poor decision making. Any consideration they did give was largely negative, I believe because the severity of my condition was not clear.

38) I have had to carefully consider whether I am comfortable sharing the details of my condition. With the benefit of hindsight, I believe that more detail about the specifics of the condition may have allowed the Committee to better understand why I may have found it difficult to make the right decision at the time. [Personal/medical information redacted]

39) In 2015, not long after my first election as an MP, I was hospitalised for some time after falling seriously ill. As a result of this hospitalisation, I was eventually diagnosed with [a medical condition]. Some general information on the disease can be found here [link removed]. It is a serious [...] condition with lifelong consequences. I have to take medication daily in order to live a normal life and keep in good health.

40) [Personal/medical information redacted]

41) In the context of the pandemic, particularly in those early stages, there was a lot of media reporting about the dangers for the clinically vulnerable – as well as a lot of speculating and reporting on the impacts for those in very good health, with focus on a

shortage of ventilators. When I received a positive test result, I cannot overstate the panic that I felt, particularly in light of my own health condition. Prior to the Pandemic, I had a previous issue with a short supply of my medication and had tremendous difficulty in getting medication due to the fact that there is no uniformity or sharing medical information between the Scottish & English NHS. With a very limited supply of medication with me, previously experiencing difficulties in obtaining it in London, and a general overwhelming anxiety about my predicament, I was not thinking clearly and my decision was based as a consequence of genuine panic. In my panic I had a very real fear that I could die hundreds of miles from my daughter, who lives with me, and she could be alone in Scotland, [personal/medical information redacted].

42) I would also like to share that before the time of this incident, because I was listed as vulnerable, I received a call from my GP practice asking whether I wanted a Do Not Resuscitate (DNR) order placed on my record should anything happen. You may note that there has been substantial uproar about this in Scotland. Being so far from my family, support network, despite not feeling sick at the time, not knowing whether my wishes in this regard would be respected in a potential worst-case scenario in a city so far from home and under a different NHS system all played a part in my intense panic.

43) While I understand that some might question why I chose to travel to and from London at any point throughout the pandemic in light of being clinically vulnerable, it is important for me to explain the context. I have always put my job above all else – being elected as an MP is a great privilege. I have always felt an enormous sense of duty to make sure that my constituents are represented properly. At the time, virtual participation in debates was not an option, and I felt a great sense of obligation to speak on behalf of constituents in the debate that day.

44) By way of wider context, I would like to add that I am not a career politician and came to front line politics relatively late in life. It is no secret that front line politics remains immensely misogynistic. It is therefore very difficult as an older woman, from a working-class background, to show vulnerability or weakness in this job.

45) I believe that the details of my health condition help illustrate why I may not have been thinking clearly and could be considered a mitigating factor in my case.

Appendix 2: Additional written evidence

Letter from Margaret Ferrier MP to Sir Peter Thornton KC, Chair of the sub-panel, dated 9 May 2023

Dear Sir Peter

Please consider this letter a brief covering note to the attached correspondence from my consultant, Dr D, in relation to my medical condition.

You will see that Dr D has set out the details of my diagnosis, medical history in relation to this diagnosis, and current care plan. I hope that it contains enough detail to answer any technical questions the panel may have about my condition, however if you require any further information to assist you in your decision making, please let me know and I will do my best to provide it. I intend to speak to the contents of Dr D's letter in more detail when we meet on 12th May.

I am sure you will understand that I am very anxious about details of my personal medical history being placed in the public domain, and I would like to request that this letter is not published alongside any final report into my case.

Dr D's letter explains how a diagnosis of the condition was reached, and some of the difficulties we had identifying a suitable course of treatment. You will see that he has explained that, because of the risk of recurrence of the condition, patients are generally weaned off the medication rather than stopping 'cold turkey'. You will also see how difficult it was to stabilise the condition following my hospitalisation and subsequent diagnosis [personal/medical information redacted]. I hope this sheds some light on how this contributed to my anxiety levels in September 2020.

I am aware that Dr D's letter does not address an argument submitted in my evidence to the Parliamentary Standards Commissioner and appeal about the difficulty of obtaining a prescription from Scotland while in England – this is because while my medication is prescribed under [their] direction, it is my GP that writes the prescriptions for dispensing. I understand that it is widely accepted that an issue with the electronic prescription system is that prescriptions cannot be transferred across jurisdictions owing to the different systems and processes of the different NHSs. However, if you require further evidence of this, please let me know.

Yours sincerely,

Margaret Ferrier MP

Appendix 3: Further additional written evidence

Email from Margaret Ferrier MP to the Secretary to the IEP, dated 10 May 2023

Dear [Secretary to the Panel],

As mentioned by [Member of Ms Ferrier's staff] earlier today, I am writing to share further evidence that I would be grateful if the Panel took into consideration. I believe that this can be considered in relation to paragraph 29 of my written submission.

I have attached the following:

- Draft version of the PSC's memorandum, sent to me on 01/03/23 for fact checking.
- Covering letter, sent to me alongside the memorandum on 01/03/23.
- Email chain between myself and the PSC's office (a) confirming that I had no changes, and (b) his office would be sending this to the Committee.

The Commissioner's Memorandum as presented to the Committee is included as an appendix to their published report, which can be found here³⁴.

The point of concern in the Memorandum, changed after I had approved it in the fact checking exercise and that I believe could have made a material difference to the outcome of the Committee's deliberations can be found at paragraph 69 of the draft version. The amended version is at paragraph 70 of the published version. Please see below, emphasis my own:

Ms Ferrier has already been convicted and sentenced by the criminal court in Scotland for this issue. That does not alter the fact that she also broke the Code of Conduct for Members, but it does mean that in selecting a sanction for her breach of the Code, **the Committee will wish to avoid appearing to breach the rule against double jeopardy and will wish to address only**

³⁴ Committee on Standards, Ninth Report of Session 2022–23, *Margaret Ferrier*, HC 1276

the reputational Code issues for the House with which the criminal courts will not have been concerned.

This was omitted from the final version sent to the Committee for consideration. I was not aware of this until after the Committee received it.

While I accept, as the PSC's covering letter sets out, that the contents is for him alone, he also notes that his draft analysis may change 'in light of any comments you make on the factual accuracy of the memorandum', implying that it would not be changed otherwise.

It feels important that the PSC, with his legal training and position as someone highly qualified to deliberate on this case, felt it necessary to caution the Committee about the principle of double jeopardy. I was surprised and alarmed, following receipt of notification from the Committee, that this had been removed in the version they were relying upon.

I would like to apologise to the Panel for not submitting this earlier. I was unsure if I would be allowed to share this correspondence in this way. As I am sure you will understand, the appeals process is still new and I have been trying to navigate it with as open and transparent an approach as possible, to the best of my understanding.

Kind regards

Margaret

Letter from the Parliamentary Commissioner for Standards to Margaret Ferrier MP, dated 1 March 2023

Dear Ms Ferrier

I enclose a copy of the draft of my Memorandum to the Committee, along with the written evidence on which I have relied. This is in accordance with the arrangements [agreed with the Committee on Standards and outlined in the Commissioner's Information Note, a copy of which I sent to you when I began this inquiry, and the Committee on Standards' recently published] in the Procedural Protocol in relation to the Code of Conduct, agreed by the House on 18 October 2022.

There are three things I should explain about the draft memorandum. The first is, as I am sure you are aware, that the content of my memorandum is a matter for me alone. However, I would welcome your comments on its factual accuracy. As you can see, I have included a heading under which any other comments you wish to make might be included. If there is nothing you wish to add, I will remove that heading.

Secondly, while I have included my draft analysis, I should emphasise that this might change in the light of any comments you make on the factual accuracy of the memorandum.

Thirdly, you will note that the draft memorandum makes recommendations only to the Committee and the decision in this matter lies with the Committee. The Committee will offer you an opportunity to submit further evidence or make representations before they reach a decision. This is in line with the Committee's procedural protocol.

I would be grateful to have your comments as soon as possible and by no later than 4pm on 7 March 2023. Please let me know if you require an extension to this deadline.

Once I have referred this to the Committee, the Clerk would then let you know when a date has been arranged for the Committee to consider the memorandum and he will send you a copy of the final text shortly before the Committee meeting.

In the meantime, our correspondence about this inquiry remains protected by parliamentary privilege and you should continue to keep this matter strictly confidential.

Yours sincerely

Daniel Greenberg CB

Parliamentary Commissioner for Standards

Appendix 4: Transcript of oral evidence

Friday 12 May 2023

Members present: Sir Peter Thornton (Chair); Ms Monica Daley; Miss Dale Simon.

Questions 1 - 69

Witness

Margaret Ferrier MP

Also in attendance: [Member of Margaret Ferrier's staff as nominated supporter].

Q1 Chair: I will introduce everybody. My name is Peter Thornton. I chair the sub-panel. On my left is Monica Daley—a member of the sub-panel. On the screen is Dale Simon—a member of the sub-panel. [Secretary to the IEP], who you know from the secretariat, is here. Also present are [Hansard Reporter] from *Hansard* and, on the screen, [Hansard Reporter] from *Hansard*.

The meeting is being recorded. That recording will be destroyed at the end of the case, but it is being kept for the moment for the transcript, which will be prepared by *Hansard*. As in all conduct cases, that will be kept and published in due course at the end of the case.

We have all our names for the record. The purpose of the hearing is for you, Ms Ferrier, to make an opening statement and to make any representations you wish in support of the appeal. We do, of course, have your correspondence, and particularly your appeal submissions in writing already; fresh points are always appreciated rather than old points, but I recognise that the two blur from time to time. We will listen to what you have to say. We are here to listen.

We shall ask questions for clarity about a number of the topics which you have raised, and at the end of the meeting, we will deal with what happens next and what the process is. Now, if you want at any time a short break for any reason, maybe to discuss something—if you want to have a discussion, there is an empty room next door, so you can slip next door and we will wait—feel free to say, “Can I have a word with [supporter]?”

So let's begin, then, with your opening statement.

Margaret Ferrier: I would like to begin by reiterating that I wholly accept the Committee's finding that I broke the code of conduct. I have appealed because I believe that the punishment and the consequences that the suspension would have are unduly harsh when

all contributing factors are taken into account. It is also very important to me to be clear from the outset that I deeply regret my actions in September 2020. I continue to express my apologies to colleagues, the parliamentary community, and constituents who may have felt let down by my actions.

Chair: Take your time, there's no hurry.

Margaret Ferrier: I am truly sorry for any hurt or upset that my actions caused. I felt, in submitting evidence to the Commissioner, that I did not want to be seen as excusing my actions. This decision, perhaps based in naivety, has meant that many things I feel are important to the context of my case have not been properly considered.

I believe that the panel would like to speak about the details of my medical condition today in relation to the medical aspect of my appeal. You have all hopefully had time to review the letter from my consultant that sets out the detail of my condition, treatment plan, and its ongoing impact. What I have shared with the panel here is very private, and I have a lot of anxiety about any of this becoming public. [Personal/medical information redacted], I have always carried out my duties as an MP to a high standard despite this issue, and I would never want my ability to do my job called into question because of it.

I set out in my written submission how this contributed to high anxiety levels, and therefore poor judgment on my part. I understand that, when set out in writing or when spoken about with the benefit of hindsight, this may sound very linear, and all I can say is that that was not that way at the time. There were multiple things going through my mind when I was unable to think clearly, and I am trying to explain what some of those thoughts were. I do not pretend that these were organised, well thought out considerations in the moment. I am, of course, happy to answer any questions the panel may have about this to the best of my ability.

There are a couple of other things I would like to speak about today, should the panel be open to hearing it. The first is about the timeline of events that led the Committee to conclude that my self-referral to the Standards Commissioner could not be considered a mitigation. I would like to clarify that in some more detail, if the panel will allow me.

I would also like to address the Committee's assertion that my dealing with Mr Grady, who at the time was my Chief Whip, constituted a lack of honesty, and this has called into question my credibility. I am not someone that is by nature dishonest, and I have done what I can to demonstrate this throughout my time in Parliament. There are very valid reasons predating the events in question that meant I was extremely uncomfortable

dealing with him, and this includes an incident 10 days before this event where he sought to belittle, humiliate and intimidate me in his office. As mentioned before, I did not wish to be seen to be making excuses for my actions, but there are other reasons why I exercised caution in being specific about the reason for my discomfort with dealing with Mr Grady, which I hope the panel will understand.

If the panel permits, I would also like to highlight what I believe is a flaw in the system, brought about as an unintended consequence of the introduction of an appeals process—which, to put on record, I am very grateful for. I am the first person facing this severity of sanction to bring an appeal, and I would like to explain this in more detail further to my written submission. On Wednesday evening I shared some further information regarding the draft memorandum sent to me by the Commissioner from which important deliberations were omitted when sent to the Committee for their inquiry. I am happy to talk about this in more detail should that be helpful.

Finally, I want to touch on some of the consequences I have faced since the events in 2020. I completely understand that these are as a result of the decisions that I took. However, I hope the panel will recognise there are mitigations. I have already faced a number of punishments for my actions both official, through the courts process, and social. I did not appeal the sentence handed down to me in court, despite that option being open to me. The sentence I was given was considered by my experienced legal team as harsh. It is unfortunate that owing to the fact there were no legislative covid regulations in force at the time, the offence I was charged with was far more serious and severe and did not require proof of any malicious intent. This offence does not exist in England. The later-enacted covid legislation did not include the sanction of a criminal record, and certainly not community penalties, but was limited to fixed-penalty notices and fines.

More than this, though, are the unofficial consequences. The media have been relentless in their pursuit. In the immediate aftermath, I became a prisoner in my own home with journalists camped outside my front door for months. My daughter has been followed in her car by them. My family and friends have been approached in public or outside their homes, and it happens every time we reach a new stage of the case. After the report was published BBC Scotland filmed my home. The door number was in full view with no attempt to cover it. I am well known for living in my constituency and it could have had really worrying consequences.

The abuse that I have faced online has also been overwhelming, particularly in the immediate weeks following the initial story, but it does re-occur every time the story is back in the news. I have had death threats and malicious messages about everything from my

work to my physical appearance. For a long time, to protect my staff and as a result of the immense guilt that I felt, I read all of these personally to ensure that—there were no security reasons, but it was so that my staff did not have to see them. The fallout from this situation over the past 31 months has taken a huge toll on my mental wellbeing and I have, quite honestly, been racked with guilt. That has been the most difficult thing to come to terms with more than anything. I am disappointed in myself.

It has also been difficult to come to terms with the fact that the hard work I have put in in the 60 years of my life prior to this mistake and the nearly three years following would be completely discounted as a result of this matter, which has undoubtedly been the biggest mistake of my life. Despite all of this, though, I do want to talk about what I have learnt from this experience.

The past couple of years have provided plenty of time for reflection and I have spent many hours ruminating. While I of course deeply regret my actions, I have also grown as a result of them. There are ways they have made me a better parliamentarian, reminding me of the privilege that I hold in this job and the way that my words and actions can impact in positive ways, too. It is why, despite all the hard part of remaining in the public eye, I have not shirked my responsibilities and have continued to regularly attend Parliament and engage with my constituents. Thank you.

Q2 Chair: Thank you very much. First, I would say that in relation to the medical evidence, which we have of course read—

Margaret Ferrier: Could you speak up a wee bit?

Chair: Of course. We have of course read the consultant's report. Thank you for providing that. Do you wish to take those points in order? I think you dealt with some of the consequences, but you wanted to talk about the timeline of events in relation to self-referral. Do you want to deal with that?

Margaret Ferrier: Yes. I think it's really important that, as I mentioned in my written evidence to the Commissioner, there was a Zoom call attended by myself, my then office manager—not [supporter], but my office manager at the time—the Chief Whip at the time, Patrick Grady, and other members of the SNP leadership team and press office. It was at this meeting that the contents of the public statement that I posted on Twitter were discussed. Basically, that was tweeted out on 1 October, at 5.50. But to my knowledge,

before that happened, nobody within³⁵ the SNP or the parliamentary community was aware of that breach. Although the possibility of referring to myself to the—

Ms Daley: Sorry, can I ask you to slow down just a little bit?

Margaret Ferrier: Yes. Although the possibility of referring myself to the Standards Commissioner was discussed on that Zoom call, it was not mentioned in my public statement at that time. It is important to say also that I did not seek any legal advice ahead of publishing the statement. I feel that had I been looking for some way to cover up my wrongdoing, I would have taken consultation with a solicitor. But actually, given my mindset at that time, I wasn't even thinking that that was necessary. Shortly after the statement went out—one hour—the SNP suspended the Whip. It had been discussed on the initial Zoom call earlier. However, there was no real mention of, "We're going to have to take the Whip off you".

One hour after the statement went out on Twitter, the SNP got in touch. At that point, my formal relationship with the party had ended and, basically, they had no power over my actions. However, out of a genuine desire to do what was right and hold myself accountable for my actions, later that night I did write to the Parliamentary Standards Commissioner at that time, outlining my self-referral and requesting that she look into the matter. I just want to clarify that that was not done under any threat from the party, because I think there was a bit of misunderstanding in the report when they suggested that the party were going to be giving it to the media. The statement that I had tweeted was already out there, so what I meant—maybe it should have been clearer—was that the SNP were going to contact, I believe, other members of the press and the Press Association so that the story could be amplified. I hope that that clarifies the kind of timeline.

Chair: Yes. Monica, you wanted to ask about the self-referral.

Q3 Ms Daley: I did. I want to really understand, from the meeting, why the decision was made to use Twitter in terms of disclosing. Can you just talk me through it? At the meeting, I presume there was some discussion about the fact that what had happened was likely to become public or be in the public domain in some way. Could you tell me a little bit about that?

Margaret Ferrier: The discussions came up with all the people in that meeting, and it was Twitter that was suggested to me as a way to get my statement out to the general public. I think they thought at the time that I had enough followers—if you want to call it

³⁵ Ms Ferrier has noted that she meant to say "outwith" not "within"

that—to be able to amplify and put that out there in the public domain. I did not decide which format.

Q4 Ms Daley: You said that there was going to be a press statement. What form did you think that press statement was going to take?

Margaret Ferrier: I honestly don't know. My mind—I was not thinking clearly. There was me and other people on that call, and it almost felt like certain decisions were being made that I was agreeing to. Because I did want to hold myself accountable, I agreed to them.

Q5 Ms Daley: So first of all it was Twitter, and then there was the press statement. Is that correct?

Margaret Ferrier: Not that I'm aware of. The only thing that I am aware of is that I put the statement out on Twitter, and then everything else followed on from there.

Q6 Ms Daley: Tell me about when you decided to self-refer. What made you decide to take that step?

Margaret Ferrier: I just felt, again, that it was the next part of the process. I was holding myself accountable for my actions and wanted to be fully up front and say, "Look, if I've done something that goes against the code of conduct, I am very hard on myself. There's nobody harder on me than myself." I felt that I had to hold myself up to being accountable and was doing the right thing by doing that: I put a statement out, apologising for my actions and hoping that people would see it and take it the way it was meant. I was holding my hand up and saying, "I've made a really bad error of judgment, and I'm holding myself responsible." The Parliamentary Standards Commissioner was the next part of that.

Q7 Ms Daley: You also referred yourself to Police Scotland.

Margaret Ferrier: I did.

Q8 Ms Daley: Where did that come in the process?

Margaret Ferrier: That came into the conversation on the Zoom call: that because they felt it was a breach of covid regulations, I needed to refer myself to the police. By my referring myself to Police Scotland, they would speak to the Met police, I'm assuming, because it involved being in Scotland and being down in England.

Ms Daley: Can I just ask one more question, Chair? Actually, I think this is something to come back to later. In your referral, you referred to taking the safest steps in unfortunate circumstances. Maybe you could bear that in mind. I just want to understand why you felt

those were the safest steps, but that is perhaps not a question for now. Chair, those are my questions.

Q9 Chair: Thank you. Can I just clarify the timeline on 1 October? You did a number of things—you self-referred to the Commissioner and to the police, and you tweeted. Before all of those, was there this Zoom meeting with senior members of the SNP?

Margaret Ferrier indicated assent.

Q10 Chair: What sort of time was that meeting?

Margaret Ferrier: That was about 4 o'clock—between 4 and 4.30.

Q11 Chair: I think you said 4 to 4.30 somewhere. What was the first action after that meeting?

Margaret Ferrier: The other thing that was mentioned in that was that I may want to tell some of the local people in the party, because the statement was going to be coming out, so that they wouldn't be surprised by it. That was suggested in the meeting, but what really was to happen when I hung up the phone was that I was to basically speak to the police and self-refer to them.

Q12 Chair: Yes. As I understand it, there were two key pieces of advice at the Zoom meeting. One was to report to Police Scotland. Is that right?

Margaret Ferrier: Yes.

Q13 Chair: And the other was notification to you that the SNP was going to give the story to the Press Association.

Margaret Ferrier: Yes.

Q14 Chair: That day.

Margaret Ferrier: They didn't say, but I certainly took it to be as soon as the statement went out on Twitter, or at the same time.

Q15 Chair: Okay. So after the Zoom meeting, was the next thing reporting to the police, reporting to the Commissioner or the tweet?

Margaret Ferrier: The police.

Q16 Chair: The police? What time was that, please, roughly?

Margaret Ferrier: After half-past 4.

Q17 **Chair:** Pretty soon after the meeting.

Margaret Ferrier: That was the first thing after the Zoom call.

Q18 **Chair:** And what was the next thing?

Margaret Ferrier: Trying to get hold of some of the local people, like the MSPs and some of the people that knew me in the party locally.

Q19 **Chair:** And then the tweet?

Margaret Ferrier: And then the tweet, yes.

Q20 **Chair:** What sort of time was that?

Margaret Ferrier: 5.50.

Q21 **Chair:** 5.50. And the reporting self-referral to the Commissioner.

Margaret Ferrier: That was later on that night: maybe half 8 or 8 o'clock, something like that.

Q22 **Chair:** Thank you very much. Was it obvious to you at that stage that this was going to go public?

Margaret Ferrier: Sorry, what?

Chair: Well, it had already gone public because of your tweet. Clearly you recognised by that time that there was a public interest in this story.

Margaret Ferrier: No. Well, I did and I didn't. I will explain why I thought that: because on the Zoom call I made it very clear that if this went out on Twitter and was being given to the Press Association, I was concerned about how the public, how my constituents, how my colleagues, how my friends and how my staff and all these people would be thinking about this. I think that I did show concern for myself that I was worried about a backlash from all of that.

Q23 **Chair:** Did you have any help with the wording of the tweet?

Margaret Ferrier: Yes.

Q24 **Chair:** At the Teams meeting?

Margaret Ferrier: At the Zoom meeting, yes. But just to clarify, as I say, the statement was the first thing that went out, and then what followed would have followed off the back of all that. You can imagine: you are putting that out on a Twitter account and people see

it instantly—press, party members, whatever. I was told at that point, “Probably best to switch the phone off—don’t watch the news, don’t do any of that.” I was in a bubble later on that night.

Q25 Chair: So by the time of your 8 o’clock or 8.30 referral to the Commissioner, the story was out and about?

Margaret Ferrier: It was out in the public domain, and it had obviously gathered interest a lot.

Q26 Chair: And if you didn’t refer to the Commissioner, somebody else was bound to.

Margaret Ferrier: Well, no, not necessarily, and I think I have basically covered that bit.

Ms Daley: I think it is at paragraph 6 on page 3.

Margaret Ferrier: I think, as I said in my appeal, that that was an unfair assumption because there have been a number of other cases during this Parliament where you may have expected to see others put through that process that weren’t. That has included other Members who have had criminal convictions, so I think to say that somebody else would have referred me is not necessarily correct. To go back, I was willing to refer myself, take the responsibility for my actions and be accountable. There was no pressure to do that.

Chair: Good. That is clear—thank you very much.

The second item—you may have dealt with this; you did briefly—was about the Chief Whip and the question whether there was a lack of honesty to the Chief Whip.

Q27 Miss Simon: I am sorry, Peter—just before you move on, can I clarify something in terms of the timeline? When you self-referred, Ms Ferrier, had you already had the Whip removed? Did I hear you say that the Whip was removed within an hour of you issuing the tweet?

Margaret Ferrier: That is correct, Miss Simon.

Miss Simon: Thank you.

Q28 Chair: Coming back to the Chief Whip, you said that you were particularly uncomfortable as a result of an incident 10 days before when he intimidated you. Do you want to say anything more about that?

Margaret Ferrier: Obviously the discussion was around a colleague. Without saying too much or mentioning the name of the colleague, it was someone within the group who was ill and not attending Parliament. It had come to my attention that that person was receiving

quite a lot of abuse. What was happening was that no vote was getting registered for them, and people were saying, “Why are you not at Parliament? Why are you not voting and representing your constituents?” It was around that.

Innocently, I was in the Members’ Tea Room one morning. The Speaker was sitting there, and I happened to say to him, “By the way, one of my colleagues is having a bit of a hard time. She is really not well, she is trying to recover and she is getting bombarded with a lot of abuse. It seems to be around voting. Is there anything that can be done?” He mentioned, briefly, “Well, what about the Chief Whip?” “Right, okay.” I did mention at a group meeting about this particular colleague and what was happening, and I was told at that meeting that everything had been sorted.

The day of the incident, 10 days previous to all of this happening, I got summoned to the office by the Chief Whip, who shouted, “I’ve had somebody say to me that you have raised this about your colleague.” I said, “Well, yeah, because she was getting lots and lots of abuse and I just thought that was wrong. I wanted to try to help.” That meeting just did not go well at all.

Q29 Chair: Can I just understand what you are saying about your relationship with the Chief Whip—what you thought about him, and how you previously reacted with him, and he with you? What are you saying about the question of dishonesty? What he has suggested is that you didn’t tell him the truth, you delayed telling him the truth, you told him lies about why you wanted to go home and so on. What are you saying? How is that affected by your relationship with him?

Margaret Ferrier: I think it meant that I couldn’t be open and honest, because I think I was worried about how he would deal with that. I felt that there wasn’t very much empathy. I know that Chief Whips have different roles within that role, but I just felt that there would be no empathy, and I panicked in that moment, as I have said, when I got that message telling me that I was positive. I felt that I had to get home to where my family were, where my own bed was, where I would be safe. I think that going through my head that night was total panic. I couldn’t think straight. So that was why I thought, “I need to get home, I need to get home.” I was thinking about my medication—I didn’t have enough medication with me for—

Q30 Ms Daley: Can I stop you for a minute, Ms Ferrier, before you move on to the reasoning of your decision? In respect of the Chief Whip—you have to understand that I am not a parliamentarian—why could you not just go home and then afterwards say to him, “I had to go home because of x or y”? Why did you have to have this conversation

with him at all, which was misleading, given what you have just said about his lack of empathy?

Margaret Ferrier: I think that I just wanted to let him know that I was going—I was going home, off the parliamentary estate. To make it clear, at that time he was in his office—it is a double office, and he was in the back office and the door was shut, so I was speaking through the door to him. It was a very quick conversation, and I just said that I had to go home. I felt, I think, that because he had seen me on the parliamentary estate earlier, by not saying I was going home I would just be disappearing. That was my thought pattern at the time, rightly or wrongly.

Q31 Chair: Okay, thank you. The third point that I have noted that you wanted to mention was about a flaw in the system.

Margaret Ferrier: This is the recall. What I would like to say is that should the sanction be upheld, we know that a recall petition would then be opened. Unfortunately the way that a recall petition works is that it's not like a referendum, where there is more than one option available on the ballot paper. I suppose the argument for that would be that if it did go to a by-election, then your constituents would have the opportunity at that point to express their view, if the recall petition threshold was met.

However, this is where it kind of goes wrong with the appeal system. As I said, I really do appreciate the fact that there is one, but without the appeals process, the normal process would be set in place within about five days of the Committee's findings and there would be no confidential process whereby I could not say anything. I have not said anything other than to [supporter]—that's all. You're not allowed to come out and say anything about the appeal or what you're doing, or to defend yourself in any way publicly because of the confidential nature of the process, which I have abided by 100%. But what that has meant is that as soon as the report got published on 30 March, the parties who would like to be campaigning and holding the seat in my constituency have been off and running.

Now, up to today's date, we're talking—how many weeks? I think it is six weeks, from 30 March to now, that they have actively and intensively been campaigning every day in my constituency. Within 24 hours, Labour were handing out leaflets which had a QR code that promised to notify voters the moment that a recall petition went live. They have posted constantly on social media, peddling a vicious and misleading narrative about me. Members of the Opposition Front Bench have been visiting the constituency regularly. There have been tweets put out that have been disgusting and have not gone down well with the local people.

Q32 Chair: Can I just ask: what are you suggesting that we should do in relation to the recall Act?

Margaret Ferrier: Well, I will get to that. What I am trying to say here is that the gap between the publication of the report and the recommended sanction being made public, and then the actual date of a petition opening, has left me disadvantaged to the point where the Opposition see it as a key fighting ground. They will have had months already to campaign, plus the campaign spending would only start from when there was a by-election. This is what both the Committee and the Electoral Commission have actually said: that we have to consider that it would trigger the Recall of MPs Act, which needs to undergo significant change to make the process fair.

So what I am saying is that if the 30-day sanction stood—or any sanction that led to a recall petition—then I am going to be severely put at a disadvantage, as I already have been for six weeks. While the recall petition is open, that is another six weeks and then you would have the by-election on top of that. You could be talking four months—if not more—for this whole thing, and because campaign spending isn't captured at the moment, we don't know how much has been spent.

The SNP has also posted a leaflet through my door asking voters how they will vote to replace their MP in a by-election. So the SNP and Labour are off and running, and I have not been able to say anything. I have had to keep quiet because of the appeals process. I do have copies if you wish to some of those communications. You can easily find that on social media as well.

I think the Electoral Commission has made various recommendations that the UK Government need to look at this legislation and amend it. If that is the case—if they have already said that the legislation needs significant change—I believe it would be unfair to put me through that when both they and the Committee have had to take that into account in their deliberation.

Q33 Ms Daley: What you are saying is that it is an unintended consequence of this appeal process.

Margaret Ferrier: Of the appeal. Correct, because you have to abide by—

Q34 Ms Daley: So are you asking us to reflect or mitigate that in some way in the sanction?

Margaret Ferrier: It is certainly something to consider, but where I am coming from is that for potential future cases it would need to be considered, or the legislation would need to

be changed. But going back to me again, that is not going to help me, because we have got the Recall of MPs Act at the moment, which is significantly flawed. It needs looking at from various angles—whether that is campaign spending, how secure the count is, which I think has been mentioned, or electoral observation and how you collect these signatures.

What I think I am trying to say is that Scottish Labour—well, Labour—and the SNP are both off and running from 30 March, when six weeks later I am still not able to defend myself. I am still not able to go out and chap doors and say to people why they shouldn't sign a recall, if it came to that, or whether they should vote for me if I decide to stand in a by-election. I have not been able to do any of that.

Q35 **Chair:** Thank you very much. Your next point was about the draft memorandum.

Margaret Ferrier: Yes.

Chair: Which was sent to you to fact-check.

Margaret Ferrier: Yes.

Chair: And then you saw the final memorandum, which was different. I think there were three bullet points, all of which from the earlier version had been reduced, including one about double jeopardy. Is that your point?

Margaret Ferrier: Yes.

Q36 **Chair:** And how do you say that you are prejudiced by that?

Margaret Ferrier: I would say that—

Chair: We have read all the material—I should have said that. Thank you very much.

Margaret Ferrier: I think it is quite telling that the Parliamentary Standards Commissioner did put that in, because he is uniquely positioned and highly qualified to assess the case. He felt that it was important to caution the Committee, clearly, about the judicial process versus the parliamentary process and the double jeopardy, and basically the course of natural justice. This is where in the report, the Committee on Standards didn't take into account some of the mitigations that he sent.

I felt quite happy when I received the draft memorandum and I saw that in it. It made me feel more at ease that it was going to be taken into account that I had already been punished—severely punished—for what I had done and my actions. I felt happy that that was in the draft memorandum, and when I saw the final version that the Committee had

received, I felt extremely worried and alarmed by the fact that they had felt to take it out. I felt that that would have been a potential mitigating factor as well.

Q37 Chair: The Committee did refer to it as a mitigating factor.

Margaret Ferrier: Sorry?

Chair: I will just pick out what they said: “We consider the following to be mitigating factors”—paragraph 37—“Ms Ferrier has received a criminal penalty for her actions, of 270 hours of unpaid work”. So they do refer to it.

Margaret Ferrier: But I think the point I am trying to make is that they have taken the sheriff’s deliberation and they have looked at parts of the deliberation, but they have not taken into account the other part of it where it basically says he has read carefully the many references. This is something I was asked to provide to the sheriff before any deliberation by him—that if anybody wished to give any testimonials, they would be kept absolutely out of the public domain, which we adhered to. These were testimonials from staff members, constituents, charities and organisations. We had about 40 of them. They said they had carefully read the many references that had been given to me for my support and the terms of the criminal justice social work report.

Q38 Chair: Was that quite a full hearing in front of the sheriff court?

Margaret Ferrier: It was, yes. The other thing to maybe mention at this point is that the court allowed cameras in. That is not normal to do that, but they allowed cameras. They obviously were not photographing me, but the camera was on the sheriff. He said he had listened carefully and had taken full regard of everything that had been said by the senior counsel and that it is clear that I have made a significant contribution to society in my work as a Member of Parliament and otherwise. He recognised all the social work report and, from my senior counsel, my regret and remorse.

Also, they recognised the consequences for me as a result of my behaviour—again, behaviour which a lot of the testimonials, if not all, said was completely out of character, which is something I would like to get across today. That behaviour was completely out of character because, when we think of the time, 60 years had gone by and that happened at that point, so to have been a model citizen for all that time and then for this to happen—as I said earlier, it was difficult for me, because, really, I was disappointed in myself. If I could turn back the clock—I mean, hindsight is a great thing, but all we can do is learn from it, move on and become a better person. I think that is what I want to get at. I felt

there was no cognisance of that part of what the sheriff said. It was all the bad bit and no cognisance of what kind of person and what kind of life I had led up to that point.

Q39 Chair: I think you have said more than once that it was a poor decision to travel to London.

Margaret Ferrier: Yes.

Q40 Chair: What do you understand would have been the right decision?

Margaret Ferrier: The right decision would have been to stay at home, and if taking part virtually in that debate in Parliament had been available, I would not have needed to have travelled. But I think, to give some context, we had come out the back of quite a long lockdown—I think it was a three-month lockdown that summer. People were still learning a lot about what covid meant and what you were meant to do. There were even points when you didn't know whether you were a key worker or not. There were different rules and regulations, and guidelines, in all four jurisdictions, so when lockdown came in and the Scottish Government put in the rule that you could not cross the border—none of us could cross the border—you were thinking, “Am I a key worker? Can I go down there?”

Coming off the back of a long lockdown and not being able to do all parts of my job properly, I felt this need to go and represent my constituents in the debate that day. That has been at the back of my mind for all the time I have been an MP: it is about my constituents and representing them to the best of my ability. I felt at that point that I was letting them down because I was not there in person and was not making their voice heard. Whether that decision was right or wrong, that was where it came from.

Q41 Chair: Can I just ask you about your actual travel? You went from your home to Glasgow Central. How did you travel that journey?

Margaret Ferrier: Taxi.

Chair: Via taxi. You then went—

Margaret Ferrier: And I wore a mask at all times. I think it is important to say that there were mitigating factors to all of this throughout. I wore a mask for the whole train journey, and on public transport, I sanitised—tried not to touch any surfaces—and socially distanced. All of those were mitigating factors—plus I felt very well. I think it is important to make the point that I felt very well. If I had felt ill, and felt that at any point I had covid, I would not have been making the journey.

Q42 Ms Daley: You say that you felt very well, but that slightly contrasts with the decision

to take a covid test in the first place. Prior to that, had you taken other covid tests before?

Margaret Ferrier: I don't think so, no.

Q43 Ms Daley: What was it about how you felt then that led you to take the test?

Margaret Ferrier: Well, I had a slight cough and I thought I had better go. It was a knee-jerk reaction. I thought, "I'll go and get it checked," which I did. I took the test but then felt perfectly well the following morning. I thought I had had a slight irritation and had overreacted. That is what led me to take the test.

Q44 Ms Daley: Was there anything different about the cough, though, that made you think, "This is unusual for me"?

Margaret Ferrier: It was just a kind of coughing. Because covid was being talked about a lot at that time obviously I thought, "Hmm, maybe I'd better go and get a test." If I had waited until the following morning—gone home and got up the following morning—then I probably would not have taken a test because I felt well, and I felt well on the Monday for travelling.

Q45 Chair: Just to complete the travel, you went from Glasgow to Euston by train, and from Euston to the hotel by—

Margaret Ferrier: Tube, I think.

Q46 Chair: Tube. Hotel to the House of Commons?

Margaret Ferrier: On foot.

Q47 Chair: On foot. And all the same going back the other way?

Margaret Ferrier: Yes.

Q48 Chair: Tube to the train station, and a taxi to get home.

Margaret Ferrier: No, my daughter came to get me. I was sat in the back of the car. She was in the front driving. We were wearing masks. Then we got home and self-isolated for about three weeks.

Q49 Chair: The test you took was a PCR test, which presumably you paid for.

Margaret Ferrier: No.

Q50 Chair: You didn't have to pay?

Margaret Ferrier: No.

Q51 Chair: [Personal/medical information redacted]

Margaret Ferrier [Personal/medical information redacted]

Q52 Chair: [Personal/medical information redacted]

Margaret Ferrier: [Personal/medical information redacted]

Q53 Chair: [Personal/medical information redacted]

Margaret Ferrier: [Personal/medical information redacted]

Chair: Okay. Shall we go on to the point about the fresh evidence? The fresh evidence—points two and three in your grounds, both related to your medical condition and medication. Dale, are you going to ask questions about that?

Q54 Miss Simon: Yes. In your grounds, you explain why you did not provide detail about your medical condition, which you have made quite clear. I just want you to expand on why you say that the detail now amounts to fresh evidence, in your mind, and why you feel the detail makes that difference.

Margaret Ferrier: Thank you, Miss Simon. I think that I am requesting it because it was not mentioned. An underlying health condition was mentioned to the Committee—to the Parliamentary Standards Commissioner—but at no time did any of them ask what the condition was or for any more detail on that—how severe it was. I think that, maybe rightly or wrongly, I was assuming that if they were unsure of how serious the condition was, they would ask for that information. I have had to carefully consider as well whether I was comfortable sharing the detail of that to many people.

Maybe with the benefit, again, of hindsight, maybe more detail about the specifics of the condition might have allowed the Committee to better understand why I may have found it difficult to make the right decision at the time. [Personal/medical information redacted] Going back to 2015 as well, I kept that very, very quiet. I didn't put that out there—that I had been hospitalised in 2015 and was really quite ill—because again I was concerned what people would think—that I was not around to be representing them properly, because it was a time where there was lots of important legislation going on, so the only people that knew I was in hospital were my staff and the MSP of the area, and I think the local press. We told them that in confidence at the time—that, “If Ms Ferrier is not voting, this is why; she is not well.” Thankfully, they did adhere to that, but obviously I then got diagnosed with this condition and have to take medication. Again, you could argue, well, maybe I should have had lots of medication away with me, but it just didn't occur to me to have that amount of medication for like a 10 or 11-day stay.

Q55 Chair: Sorry, Dale, can I just ask a question? How long were you expecting to be in London when you travelled down?

Margaret Ferrier: A few days—a couple of days, maybe.

Chair: Until? Monday, Tuesday, Wednesday, Thursday—

Margaret Ferrier: Something like that—

Chair: Friday?

Margaret Ferrier: No, not—

Chair: Not Friday?

Margaret Ferrier: No, because I'm usually home. I would have either gone home on the Wednesday or the Thursday, so I wasn't expecting— Obviously, not having a flat down here, and staying in a hotel, you don't have clothes; you have only enough clothes to do you for however long you're down here. I think that when I received the positive test result, just to make clear—

Q56 Miss Simon: Before you move on to the test result, could I just unpick something that you just said in response to my question about the detail, and why that made a difference? From what you seem to be saying, in 2015, even before you knew what the diagnosis was—because there were a lot of investigations to find out what your actual condition was—you didn't disclose even the fact that you were ill. Is that what you would say? You didn't disclose that you were in hospital or that you were ill, even though, at that time, you didn't know the diagnosis.

Margaret Ferrier: Yes. I mean, obviously my staff knew, and the Chief Whip would have known at the time, but not what it was that I was in hospital for. So, there was no information whatsoever given to anybody outwith those couple of people.

Miss Simon: Okay. Do you want to continue with the point that you were going to make? I am sorry that I interrupted you. You were just—

Margaret Ferrier: No, that's fine. I was actually going to ask if I could have a break if that's okay?

Chair: Yes, of course. We will see you back here.

Sitting suspended at 11.06 am

Resumed at 11.12 am

Chair: Dale, do you want to continue with your questions on this topic?

Q57 Miss Simon: Ms Ferrier, you were explaining why you hadn't provided the detail, and why you consider this to be fresh evidence. I want to move on to something that you referred to in terms you coming to London and—part of your concern in getting back to your home was the difficulties that you had had previously in securing your medication in the UK. I just wondered whether you could unpick that. When you say “difficulties” could you expand on what kind of difficulty you experienced previously?

Margaret Ferrier: The difficulty was that previously I had forgotten medication, or some of it. I think I only had a couple of tablets—not enough. When I tried to get a prescription—to get my doctor to send a prescription electronically to a doctor in London—they did not agree to do that. What I ended up having to do was go physically to get a doctor's appointment—leave the parliamentary estate and go and see a doctor face to face, explain what my condition was and what the medication was, but that still meant that he was not going to be giving me the prescription without clarification. It is not the kind of medication, as you can imagine, that they are just going to give me a prescription because of my say-so. A conversation had to take place between the GP and my GP up in Scotland, because of different jurisdictions—obviously the English NHS and the Scottish NHS are completely separate.

I had to basically go in person because, between England and Scotland, a prescription cannot be sent electronically—two different systems all together. In my mind, I was thinking, “How is that going to work if I am in hotel, or wherever I am, and I cannot get hold of medication?” It was just another thought that went through my head.

Just to go back to 2015, I had become very ill and was hospitalised for 10 or 11 days. I think this all goes back again to the fact that I did not want to be seen as vulnerable, because that is what happens. As a woman, you have to be stronger and not be seen to be making excuses about anything that could impact on how you do your job, and I did not want to do that. I did not want to put it out there [personal/medical information redacted] It was about that vulnerability; you don't want to be saying, “I'm not fit to do the job.”

Q58 Miss Simon: Just to clarify, then, previously the difficulty you have had in getting the medication was that you had to go and physically explain to a London doctor, and then you got the prescription—so you did get the prescription.

Margaret Ferrier: Yes. But at that point, I did not know how that would work, because I have not been able to go myself. It was just total panic.

Q59 Miss Simon: But were you aware that during that period—I am not sure how much it has changed now—a lot of doctors had moved to not in-person appointments. Is that what you were worried about—that you would have to go in person, or that you would have to contact another GP? I am trying to understand—

Margaret Ferrier: Go in person.

Miss Simon: I am trying to understand why you felt you would not be able to get your medication on this occasion.

Margaret Ferrier: Go in person.

Q60 Ms Daley: I think what Miss Simon is saying is that a lot of consultations had moved to virtual consultations.

Margaret Ferrier: I would not even have thought about that, because my GP is in Scotland and you don't go to the doctor down here all the time; it is only if you are unwell. The process now is great, because they do have a doctor in Portcullis House that you can go to. But at that time, that was not an option. In 2020, they had a doctor in Pimlico that you had to go to in person if there was something wrong with you. That was one of many things going through my head when I got a positive result sent to me. I thought, "My God! I feel well, but what does that mean for the coming days? Am I going to be alone with no friends, no family and no support network?" It was that panicking.

Q61 Dale Simon: Just to clarify, are you saying that you did not think about that at all—you did not think about the possibility of just calling a GP? Is that what you are saying?

Margaret Ferrier: I wouldn't even have known which GP to call. As I say, you would go to the nurse in Parliament normally, and the nurse would say to you, "This is who you go to." At that point, in my head, all I wanted to do was get home, because I felt very vulnerable and very alone. I don't have anybody in London that I know. There was nobody that I felt I could reach out to, and I just wanted home. I was worried about my family member at home as well—what if they had got ill, and they were up there and I was down here? It was just terrible panic—uncontrolled panic and chaotic thoughts going through my head at that point.

Q62 Dale Simon: Just to be clear, as you said, you have been in situations previously where you have been caught short—where you have been in London and have had insufficient medication because you have had to extend your period of time or whatever. So that has happened before. But on this occasion you panicked, because of the positive covid test. I am just trying to understand your thinking. It has happened before and you

dealt with it, but on this occasion, you panicked because of the additional covid implications. Is that what you are saying?

Margaret Ferrier: Absolutely, because you can imagine: you feel well and then you get a message coming through—and then you start to think about the underlying health condition you have, how it might develop and how you may be left on your own in a hotel in London with no support network. So it was just a general feeling of having to get home—having to get up the road away from here. I felt that that was the safest thing, because at home I would have family support. I would have my own doctor if anything went wrong—all those kinds of things.

Q63 Miss Simon: Just so that I am clear, the scenario that you were faced with when you decided to go back to Scotland is that you have tested positive and you have a shortage of medication. You had been in the position where you have been in London and had a shortage of medication before and dealt with it—with some difficulty, but dealt with it. But you acted differently on this occasion because of the covid diagnosis. Is that right?

Margaret Ferrier: Yes.

Miss Simon: Okay. Thank you.

Q64 Ms Daley: Can I ask a quick supplementary question? You said it was a covid diagnosis and you have referred to the underlying health condition. What was the thinking about what might happen, having covid with the underlying health condition?

Margaret Ferrier: I just thought that it could develop—you might be feeling well at the moment, but in a few days' time something could happen. I think I had had a conversation with my consultant; they were not a covid expert, but they said that it had been known at that point that you could get worse before you actually got better. I thought that maybe I had initial symptoms and felt okay, but who knows what might happen? I think just having the fact that you do not know how it is going to affect you, and having that underlying health condition—I did not know. The feeling that I had when that was sent to me—I cannot overstate the actual panic and loneliness, thinking, “Oh my God. I wasn't expecting that. I feel okay, but am I going to be okay? Am I going to be okay to be in a room with no windows and that kind of atmosphere for 10 days?” There is a food aspect as well—what kind of food. You would have to think about your diet—all that kind of thing as well.

Miss Simon: Okay. Thank you, Ms Ferrier. I have no further questions on this issue. Peter, back to you.

Q65 Chair: Thank you, Dale.

In your submission to us, you are saying that the sanction is too severe, unreasonable and disproportionate. Are you saying anything other than that the suspension should be reduced?

Margaret Ferrier: I think that anything that would trigger the recall Act, which we have already spoken about, and which is flawed—that is where I am coming from. I am not saying that I should not get some sort of punishment from Parliament. It is a workplace investigation in which it has been found that—and I have accepted the recommendations of the Committee in full. Throughout all this, for the last 31 months, I have held my hand up, and I have faced all this other stuff. I could keep you here for many hours to talk about how it has affected me, my family and my staff. I am not saying that I do not deserve a punishment, but I just felt that, considering the judicial process and that the punishment was considered harsh—and I have served it to the full.

That is another thing. When I got referred by a social work person to the community payback team in Scotland, I was pushing them to get me something. It was difficult for them to do that because they knew that there was so much media attention on this case; they had not only to protect me but to protect other service users. It was very, very difficult. If [supporter] could speak to you, she would tell you that it was very stressful for me. It was another added layer of stress, having to worry about how long it would take those people to find me something so that I could carry out my 270 hours. It was nine months, so 30 hours a month. You were wanting to try to get it done without it impacting on—I go back to this again—my job as an MP. It is a job I hold highly and want to do to the best of my ability, and I have done so every day since this event to try to make amends to my constituents and colleagues, and everybody really. The social work was another added punishment, because it took quite a number of weeks before they could find something suitable.

Q66 Ms Daley: What did you do, in fact?

Margaret Ferrier: It was a community project. I had to go into a centre and carry out an activity there for the benefit of the community. There was also some online learning that I was asked to do. The report to the court at the end made it clear that I had co-operated all the way through and was really keen to get the 270 hours done. It meant that I took some of my downtime. I did not use my parliamentary life, but I used my own downtime, and put more stress on myself to make sure the 270 hours were completed very quickly so that I could get back to it. That happened over Christmas and new year as well; I made sure I did that so that I could come back fresh and focused on my job as an MP.

Chair: Dale, are there any further questions you would like to ask?

Miss Simon: No, thank you.

Chair: Monica?

Q67 Ms Daley: You did say that you were going to talk about how you have developed and learned as a person as a result of this. I was going to ask if there was anything particular you wanted to share.

Margaret Ferrier: I think it was very difficult at the beginning. When you lose the Whip, you lose not only colleagues but people who are your friends, who you associated with before they got elected. The work I did for the party since I joined in 2011 was incredible. Everybody recognised the fact that you worked hard and you became an activist. It was a big, big part of my life. Losing the Whip at that time was a big thing to me.

I lost the support of the party, which is important to talk about. During the whole two and a half years, my staff and I have had no support from a party machine. It has been about trying to do all of this and even more as individuals: getting a private Member's Bill through Parliament; making sure that constituents are answered; drafting up responses. A lot of these things you get help with from the party, but because I am now an independent and have been since 1 October, we have had to do all this ourselves. That has been really hard.

I have had to communicate with other Members and colleagues that I would not necessarily have a relationship with. That goes across the Benches; it can be from all parties and none. What I have found, to my betterment as a parliamentarian, is that you might not agree with somebody's politics but it does not mean that that person's a bad person. They are just doing the same job as you to the best of their ability. They are trying their best. We are only human: we make mistakes. You can actually work with people you wouldn't normally work with to get good results for your constituents.

I think I put into my appeal that one of the instances was that we were the first, because of our perseverance in our office, to manage to get two women from Ukraine into the UK on a visa. It wasn't something that was happening at that time, but because of the perseverance of me meeting Ministers, and of my team as well, we managed to do that. That is what we do with every case that we've got: we do it to the best of our ability and we do that job.

I actually have new friends who you might not necessarily expect—people who respect my diligence in my work. They might not be on the same page politically, but they do respect

that you're a good MP and you're trying your best. I think that that has made me a much better MP. Because I do not have party lines being fed to me, you actually have to learn more about what you're talking about and look into things a bit more clearly, rather than going down that party line.

Q68 Chair: I think we have covered quite a lot of ground. Is there anything else you want to say?

Margaret Ferrier: No. I just wanted to say at the end, again, that I'm really sorry for what I did. I'm a good person who made a mistake, but it is not representative of my character generally, and if I could turn back the clock then I would. I just hope that the panel have been able to see who I am as a person today, and not just a mistake that I've made.

Q69 Chair: Thank you very much, Ms Ferrier. As a sub-panel, we shall now consider the question of sanction privately. We will then put that in writing, and we hope that that will be available next week. [The Secretary to the IEP] will keep you up to date on progress. The final report will be, I think, an embargoed copy. There will be no appeal from that. I remind you that, of course, as to date, this remains confidential. You have helpfully abided by that. It remains confidential until publication. I do not think there is anything else on the procedure.

Margaret Ferrier: Is it okay if [supporter] communicates with [the Secretary to the IEP] on any of the process? One of the things we found with the report was that just getting the report one hour before was quite stressful, because the high interest in the case from the media meant that we had to make a decision beforehand about where I was going to be—whether I was going to be here or in Scotland—because when that happened I had to leave my home.

Chair: I don't think we can do anything about the embargo, because that is rather firmly fixed, but we can, I think, let you know when it is coming with more time than that. I'm sure we will do that.

Margaret Ferrier: That would be helpful. Thank you very much.

Chair: Thank you very much for coming today, and to [supporter] too.

Margaret Ferrier: Thank you for taking the time today. Thank you very much.