

Description of the procedure for considering complaints against Members of the House of Lords

Introduction

1. The House of Lords [Code of Conduct](#) sets out general principles applying to Members' conduct as parliamentarians, along with specific rules governing certain relevant interests (financial or non-financial) which Members are required to register in the Register of Lords' Interests and to declare in the course of parliamentary proceedings. A "relevant interest" is one which "might reasonably be thought by the public to affect the way in which a Member of the House of Lords discharges his or her parliamentary duties".
2. Members of the House of Lords are unpaid, and many have jobs outside Parliament. The Code does not apply to Members' non-parliamentary activities, whether in public or private life.
3. Under the Code of Conduct, it is the responsibility of the Sub-Committee on Lords' Interests to examine complaints of misconduct by a Member, and, where appropriate, investigate them before reporting its conclusions to its parent committee, the Committee for Privileges. The conclusions of the Sub-Committee and the Select Committee are then reported to the House.
4. The Sub-Committee also, on occasion, considers and offers guidance on the interpretation of the Code. Such guidance, once reported to the House by the Committee for Privileges and agreed by the House as a whole, will normally be included in the next edition of the [Companion to the Standing Orders of the House of Lords](#), and may be considered as binding unless and until it is superseded by further guidance agreed the same way.
5. The House of Lords has no power to suspend, expel or fine its Members. If a complaint is upheld, therefore, the only sanction available to the Sub-Committee is to bring the conduct of the Member concerned to the attention of the House; it may also, depending on the circumstances, invite the Member to amend his or her entry in the Register or to make either a personal statement of apology to the House or a written apology to the Sub-Committee.
6. The full text of the Code, along with the up-to-date texts of the Registers of Interests both for Members of the House of Lords and for Lords Members' Staff, can be found at <http://www.publications.parliament.uk/pa/ld/ldreg.htm>.

Making a complaint

7. Any complaint alleging that a Member of the House of Lords has breached the Code of Conduct, whether made by another Member of the House of Lords or by someone outside the House, should be sent in writing to:

The Chairman of the Sub-Committee on Lords' Interests
The Office of the Registrar of Lords' Interests
House of Lords
London SW1A 0PW

8. If the complainant is a Member of the House of Lords, as a courtesy the complaint should normally be raised in the first instance with the Member complained against, or in certain circumstances with that Member's party Leader or Chief Whip, or with the Convenor of the Crossbench Peers.
9. Non-Members wishing to make a complaint should also consider whether they have made their dissatisfaction known to the Member concerned, and given him or her an opportunity to respond. If they do choose to make a formal complaint to the Sub-Committee, they should do so:
 - In writing, giving an address and a contact telephone number and email for subsequent communication; complaints submitted by telephone or email will not be considered;
 - Making clear in what respect they think the Member may have breached the Code of Conduct;
 - Supplying as much evidence as they can in support of the complaint.

Initial assessment

10. As a first step in the process, the Registrar screens out complaints which are manifestly frivolous or fall outside the scope of the Code. If the complaint is rejected at this stage the complainant will be notified and given a brief explanation of the reason. If a complaint does appear to fall within the scope of the Code, the Chairman will then undertake a more detailed assessment. She will consider both whether the complaint falls within the Sub-Committee's remit, and whether the evidence submitted along with the complaint establishes a *prima facie* case that the Member has breached the Code, so justifying formal investigation. She will report her findings to the Sub-Committee, which will then make the final decision on whether or not an investigation should be initiated.
11. The complaint will be assessed against the following criteria:
 - Complaints clearly falling within the Sub-Committee's remit relate to failures either to register relevant interests, to declare such interests in the course of parliamentary business (including committee proceedings), or to breaches of the "no paid advocacy"

rule. Complaints relating to failure by Members' staff to declare relevant interests in the *Register of Interests of Lords Members' Staff* also fall within the Sub-Committee's remit.

- Matters relating to the Members' Reimbursement Allowance Scheme are the responsibility of the Clerk of the Parliaments, as Accounting Officer for the House of Lords. In exceptional circumstances he may request the Sub-Committee to assist him in investigating a complex or serious complaint.
 - Matters not falling within the Sub-Committee's remit include:
 - policy matters or a Member's views or opinions;
 - the funding of political parties;
 - alleged breaches of the separate code governing the conduct of Government Ministers as Ministers;
 - Members' non-parliamentary activities.
 - The Sub-Committee will not accept for investigation a complaint against a Member going back more than four years. It will not consider anonymous complaints or those not supported by evidence sufficient to establish a *prima facie* case that the Code has been breached. Nor will it consider complaints which are clearly trivial or vexatious or which substantially repeat allegations which have already been the subject of inquiry (unless there is significant fresh evidence in their support).
 - The Sub-Committee will not investigate complaints where no useful purpose would be served by an investigation—for instance, if the Member complained against has already taken whatever remedial action is appropriate in the circumstances.
 - The Sub-Committee will not entertain complaints which appear to involve allegations of criminal misconduct and which would more appropriately be investigated by other agencies. Similarly, if the subject-matter of the complaint is subject to proceedings in a court of law (for instance, an action for libel), the Sub-Committee will not accept jurisdiction over the matter, and any investigation already underway will be terminated.
12. If the Sub-Committee decides, on the basis of the Chairman's recommendations, that the complaint does not merit investigation, the Registrar will advise the complainant accordingly, briefly summarising the reasons for dismissing the complaint. The Registrar will at the same time inform the Member complained against that a complaint has been received and dismissed.

Parliamentary privilege

13. If the Sub-Committee decides, on the basis of the Chairman's recommendation, that a complaint merits investigation, the Registrar will advise the complainant accordingly.
14. A complaint is not regarded as covered by parliamentary privilege, and complainants are not protected from legal action (for example, for defamation), unless and until the Sub-Committee, on the basis of the Chairman's recommendation, has decided to undertake an investigation.

15. However, from the point that the Sub-Committee decides to undertake an investigation all evidence and correspondence relating directly to the inquiry is covered by parliamentary privilege. It must remain confidential unless and until it is published by the Committee for Privileges. If such evidence or correspondence were to be published or disclosed to anyone else without the Committee's agreement, this would be a contempt of the House. Any attempt to obstruct an investigation may also be treated as a contempt.
16. However, material that is made public or has previously been made public (for instance newspaper articles or statements made to the media) would not be covered by parliamentary privilege and would be unlikely to attract privilege at common law. The Committee for Privileges strongly deprecates the making of statements to the press by any of the parties to an investigation while that investigation is in progress, and will take any attempt to use an investigation to generate publicity into account when considering a complaint.

Investigation

17. Once the decision is taken to undertake an investigation, the Registrar will inform the Member concerned of the nature of the complaint and will provide copies of the evidence offered in support of it. He will set out the particular provisions of the Code that are alleged to have been breached, at the same time inviting the Member to respond in writing with a full and accurate account of the matters in question.
18. The Sub-Committee will then consider the Member's response, along with the original complaint. In many cases, the information provided by the Member will be sufficient to enable the Sub-Committee either:
 - To dismiss the complaint; or
 - To agree remedial action with the Member.
19. If the Sub-Committee dismisses the complaint, the Registrar will inform the complainant and the Member concerned of his decision. The outcome will be reported to the Committee for Privileges.
20. Remedial action may be agreed if the complaint, though justified, is minor and is acknowledged by the Member concerned. If the offence involves failure to register a relevant interest, remedial action will involve amending the up-to-date online Register, with the amended entry accompanied by an italic note explaining the circumstances. The italic note will be removed the next time the Register is printed. The Member concerned may also be invited to make a written apology to the Sub-Committee, which will report in turn to the Committee for Privileges, describing the remedial action taken and annexing any apology.
21. In the case of a failure to declare a relevant interest in the course of parliamentary proceedings, remedial action could involve a personal

statement of apology to the House, particularly in the case of failures to declare financial interests under sections 12(a) to 12(f) of the Code. In minor cases, however, a written apology to the Chairman may be more appropriate, particularly if some time has elapsed since the offence took place. In either case, a report will be made to the Committee for Privileges.

22. If remedial action is agreed, the Committee for Privileges will not normally report the matter to the House. However, the complainant will be informed of the action taken in response to the complaint.
23. If the Member's written response is not sufficient to enable the Sub-Committee either to dismiss the complaint or agree remedial action, it is open to the Sub-Committee to pursue the investigation by seeking further information, either from the Member concerned or others, including the original complainant, third parties, or public or private bodies. Such information will be requested in writing in the first instance, though in some circumstances the Sub-Committee may decide to interview one or more witnesses, either informally or by means of formal oral evidence. Meetings with witnesses will always be held in private. In the case of informal interviews, a note will be made of the meeting, and all parties will subsequently be asked to confirm its accuracy. Formal oral evidence will also be heard in private, but a full transcript will be taken, which may subsequently be published, at the discretion of the Sub-Committee and the Committee for Privileges.
24. The Sub-Committee, like all House of Lords Committees, possesses a power to send for persons and papers.

Procedural safeguards

25. The Code of Conduct states that "in the investigation and adjudication of complaints against them, Members of the House have the right to safeguards as rigorous as those applied in the courts and professional disciplinary bodies." They may be accompanied to any meeting by a colleague, friend or legal adviser, but every effort is made to keep proceedings informal, and there is no expectation that they should be so accompanied. If they do choose to bring a friend or adviser, they will nevertheless be expected to answer for themselves (and not through their friend or adviser) any questions put to them.

Assessing the evidence

26. When its investigation is concluded, the Sub-Committee assesses the evidence. In order to find against a Member, the Sub-Committee requires at least that the allegation is proved on the balance of probabilities.
27. If the investigation has uncovered material evidence that is at variance with the Member's version of events, this will be put to the Member, who will have a chance to challenge it. Before reaching its conclusions,

the Sub-Committee will also share with the Member a draft of those parts of its report dealing with issues of fact, so that the Member has an opportunity to comment on them.

28. If there remain significant contested issues of fact, the Sub-Committee will agree its own account of the facts of the case, while drawing to the attention of the Committee for Privileges and the House any challenge to this account made by the Member concerned.

Report to the Committee for Privileges

29. The Sub-Committee's report to the Committee for Privileges will be made in the following form:
 - A summary of the initial complaint, and of the relevant elements of the Code of Conduct;
 - A brief account of the key facts in the case, with references to evidence as appropriate, and with any contested points of fact highlighted;
 - A description of any remedial action that has already been taken;
 - The Sub-Committee's conclusions, dismissing or upholding the complaint;
 - General recommendations for the guidance of Members of the House of Lords, where appropriate;
 - Any evidence, written or oral, that the Sub-Committee wishes to publish will be annexed.
30. If there is no appeal (see below), the Committee for Privileges will normally agree and publish the Sub-Committee's report without further delay; where it is not possible to schedule a timely meeting the Committee may agree the report by correspondence.
31. When the Committee for Privileges has reached its decision, the complainant will be informed of the outcome. If the complaint is upheld and a report made, the complainant will be sent a copy on publication; if it is dismissed and no report published, the complainant will be provided with a brief explanation of the decision.

Appeal to the Committee for Privileges

32. Paragraph 19(e) of the Code of Conduct states that "If after investigation the Sub-Committee finds the allegation proved, the Member complained against has a right of appeal to the Committee for Privileges". To give the Member an opportunity to make such an appeal, at the same time as the Sub-Committee's report is forwarded to the Chairman of the Committee for Privileges, the Registrar will give the Member concerned a copy, indicating at the same time the deadline by which an appeal should be made.
33. This right of appeal applies only to the Member who is the subject of any report; there is no right of appeal for complainants, who will be

informed of the outcome once the Committee for Privileges has agreed its conclusions.

34. If the Member decides to make an appeal, he or she should do so in writing, setting out the grounds for the appeal, and enclosing such supporting material as the Member thinks appropriate. The Committee will then meet to hear the appeal, and in so doing it will have before it the Sub-Committee's report, along with any annexes, and the Member's written appeal. As a courtesy, the Member will be given an opportunity to appear in person, if he or she so wishes.
35. The Committee will not normally reopen the Sub-Committee's investigation. Rather the Members of the Committee will use their judgment to decide whether, on the balance of probabilities, they endorse the conclusions of the Sub-Committee.
36. If an appeal is upheld, the Committee will be formally invited to agree a report explaining its reasons for dissenting from the Sub-Committee. The original Sub-Committee report will be published as an annex, in accordance with paragraph 19(f) of the Code.
37. If an appeal is rejected, the Sub-Committee report will be published without further delay, along with a formal record of the Select Committee's proceedings.
38. Once the Committee for Privileges has agreed its report, the Member concerned will be informed by the Committee Clerk of the time of publication, and will also be provided with a copy shortly before publication. A copy will also be sent upon publication to the complainant. Until the time set for publication the contents of the report, any evidence or correspondence, will remain privileged and embargoed.