

## **SECTION 9: ENFORCEMENT OF THE RULES**

### **Guidance**

#### **Making a complaint**

9.1 A complaint about the conduct of a member of the Parliament should—

- be made in writing to the Standards Commissioner (or, in relation to Excluded Complaints under paragraph 9.49, in writing to the authority indicated in that paragraph);
- be made by an individual person (“the Complainer”);
- be signed by the Complainer;
- state the Complainer’s name and address;
- name the member who is the subject of the complaint;
- set out the facts relevant to the conduct complained about;
- be accompanied by any supporting evidence which the Complainer wishes to submit; and
- be made within one year from the date when the Complainer could reasonably have become aware of the conduct complained about.<sup>1</sup>

9.2 A complaint which fails to meet one or more of the requirements set out above is referred to as a “Procedurally Defective Complaint”. Procedurally Defective Complaints may be dismissed by the Standards Commissioner<sup>2</sup> or, in relation to an Excluded Complaint under paragraph 9.1.6 of the Code, by the authority indicated in that paragraph.

9.3 A Procedurally Defective Complaint which is not signed or which does not state the Complainer’s name or address is an “Anonymous Complaint”.

9.4 A Procedurally Defective Complaint which does not name the member who is the subject of the complaint is an “Undirected Complaint”.

9.5 The “Standards Commissioner” is the person appointed by the SPCB as the Scottish Parliamentary Standards Commissioner under section 1(2) of the Scottish Parliamentary Standards Commissioner Act 2002 (“the Standards Commissioner Act”) and includes, where appropriate, any acting Commissioner appointed by the SPCB under section 2(1) of that Act.

9.6 The address of the Standards Commissioner is:

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Unless otherwise stated, references in these footnotes to sections are to sections of the Scottish Parliamentary Standards Commissioner Act 2002 and references to Rules are to Rules of the Standing Orders of the Scottish Parliament.

<sup>1</sup> Section 6(5)

<sup>2</sup> Sections 7(3), 7(4), 7(6) and 7(8)

Scottish Parliamentary Standards Commissioner  
Scottish Parliament  
Edinburgh  
EH99 1SP

Email:  
standards.commissioner@scottish.parliament.uk

## **Procedure for dealing with a complaint**

9.7 The procedure for dealing with a complaint (other than an Excluded Complaint in terms of paragraph 9.1.6 of the Code) consists of four stages.

- Stage 1 - (Admissibility) - The Standards Commissioner will investigate and determine the **admissibility** of the complaint.
- Stage 2 - (Investigation) - If a complaint is admissible, a further **investigation** into the complaint will be carried out by the Standards Commissioner who will then report his or her findings in fact and conclusion to the Standards, Procedures and Public Appointments Committee.
- Stage 3 – (Report) - A **report** to the Parliament is made by the Standards, Procedures and Public Appointments Committee following the Committee’s consideration of the Standards Commissioner’s report.
- Stage 4 – (Decision) - If the Standards, Procedures and Public Appointments Committee has recommended the imposition of sanctions against a member, a **decision** on sanctions is made by the Parliament on a motion of the Standards, Procedures and Public Appointments Committee.

9.8 Stages 1 and 2 of the procedure are set out in detail in the Standards Commissioner Act. That Act is reproduced in its entirety at Annexe 5.

## **Notification**

9.9 After receiving a complaint, the Commissioner will notify the member who is the subject of the complaint (unless the complaint does not name the member of the Scottish Parliament concerned). The notification will inform the member of the nature and details of the complaint. The notification will also inform the member of the name of the Complainer unless the complaint does not state the name of the Complainer or the Standards Commissioner considers that it would be inappropriate to do so.<sup>3</sup>

9.10 In considering whether or not it would be appropriate to inform the member of the name of the Complainer, the Standards Commissioner will have regard to-

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<sup>3</sup> Section 7(1)

- whether or not the Complainer is or appears to be a vulnerable person;
- any reasons given by the Complainer as to why the member should not be given the name of the Complainer; and,
- whether giving the name of the Complainer would prejudice an investigation into the complaint.<sup>4</sup>

9.11 If the Standards Commissioner considers that it would be inappropriate to give the member the name of the Complainer, the Standards Commissioner will make a report on the matter to the Standards, Procedures and Public Appointments Committee giving the reasons for that decision.<sup>5</sup>

### **Admissibility**

9.12 The Standards Commissioner will investigate and determine whether or not a complaint is admissible.<sup>6</sup>

9.13 A complaint is admissible if it appears to the Standards Commissioner that the complaint—

- is relevant, which means
  - the complaint is about the conduct of a member of the Parliament;
  - the complaint is not an Excluded Complaint under paragraph 9.1.6 of the Code or it is subject to a reference by the Standards, Procedures and Public Appointments Committee under paragraph 9.50; and,
  - if proved, the conduct complained about would amount to a breach of the Standing Orders, the Code of Conduct or the Interests of Members of the Scottish Parliament Act 2006 (asp 12);<sup>7</sup>
- is not a Procedurally Defective Complaint<sup>8</sup> or, as the case may be, is not to be treated as a Procedurally Defective Complaint ; and
- warrants further investigation, which means
  - it appears to the Commissioner after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.<sup>9</sup>

### **Stage 1 – procedure**

9.14 Paragraphs 9.15 to 9.19 apply to complaints which are not Anonymous Complaints or Undirected Complaints.

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<sup>4</sup> Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

<sup>5</sup> Section 6(1)

<sup>6</sup> Section 6(1)

<sup>7</sup> Sections 3(3), 6(2)(a), and 6(4)

<sup>8</sup> Sections 6(2)(b) and 6(5)

<sup>9</sup> Sections 6(2)(c) and 6(6)

9.15 A complaint which appears to the Standards Commissioner to be irrelevant will be dismissed by the Standards Commissioner.<sup>10</sup>

9.16 The Standards Commissioner will investigate whether a relevant complaint warrants further investigation.<sup>11</sup>

9.17 If the Standards Commissioner finds that a relevant complaint does not warrant further investigation, the Standards Commissioner will dismiss the complaint.<sup>12</sup>

9.18 If the Standards Commissioner finds that a Procedurally Defective Complaint other than an Anonymous Complaint or an Undirected Complaint is relevant and warrants further investigation, the Standards Commissioner will make a report to the Standards, Procedures and Public Appointments Committee.<sup>13</sup> The report will include—

- the reasons why the Standards Commissioner considers that the complaint is a Procedurally Defective Complaint;
- the reasons (if known) for the failure to meet the requirements set out in paragraph 9.1;
- any other matters which the Standards Commissioner considers relevant; and,
- the Standards Commissioner's recommendation as to whether the complaint should be dismissed on the ground that it is a Procedurally Defective Complaint or should be treated as if it were not a Procedurally Defective Complaint.<sup>14</sup>

9.19 Following receipt of a report from the Standards Commissioner under paragraph 9.18, the Standards, Procedures and Public Appointments Committee will direct the Standards Commissioner either to dismiss the complaint or to treat the complaint as if it were not a Procedurally Defective Complaint.<sup>15</sup> The Standards Commissioner must comply with any such direction.<sup>16</sup>

### **Anonymous complaints and undirected complaints**

9.20 Paragraphs 9.21 to 9.23 apply to anonymous complaints and undirected complaints.

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<sup>10</sup> Section 7(3)

<sup>11</sup> Sections 6(1), 6(6) and 7(6)

<sup>12</sup> Sections 7(3) and 7(6) and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002

<sup>13</sup> Section 7(4) and Rule 3A.4

<sup>14</sup> Section 7(5)

<sup>15</sup> Section 7(7) and Rule 3A.3

<sup>16</sup> Section 7(8)

9.21 An anonymous complaint or an undirected complaint which appears to the Standards Commissioner to be irrelevant will be dismissed by the Standards Commissioner.

9.22 The Standards Commissioner will make a report to the Standards, Procedures and Public Appointments Committee in respect of a relevant anonymous complaint or a relevant undirected complaint without investigating whether it warrants further investigation.<sup>17</sup> The report will include—

- the reasons why the Standards Commissioner considers that the complaint is a Procedurally Defective Complaint;
- the reasons (if known) for the failure to meet the requirements set out in paragraph 9.1;
- any other matters which the Standards Commissioner considers relevant; and,
- the Standards Commissioner's recommendation as to whether the complaint should be dismissed on the ground that it is a Procedurally Defective Complaint or should be treated as if it were not a Procedurally Defective Complaint.<sup>18</sup>

9.23 Following receipt of a report from the Standards Commissioner under paragraph 9.22, the Standards, Procedures and Public Appointments Committee will direct the Standards Commissioner either to dismiss the complaint or to treat the complaint as if it were not a Procedurally Defective Complaint<sup>19</sup> and to investigate whether the complaint warrants further investigation. The Standards Commissioner must comply with any such direction.<sup>20</sup>

### **Determination of admissibility**

9.24 If the Standards Commissioner considers that a complaint is admissible, the Standards Commissioner will proceed to Stage 2 of the procedure for dealing with a complaint.

### **Notification of determination of admissibility**

9.25 The Standards Commissioner will make a report to the Standards, Procedures and Public Appointments Committee informing it that a complaint is proceeding to Stage 2.<sup>21</sup>

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<sup>17</sup> Sections 7(4) and 7(6), Rule 3A.4 and the Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002

<sup>18</sup> Section 7(5)

<sup>19</sup> Section 7(7) and Rule 3A.3

<sup>20</sup> Section 7(8)

<sup>21</sup> Section 7(2)(a) and Rule 3A.4

9.26 The Standards Commissioner will notify the Complainer (unless the complaint is an Anonymous Complaint) and the member who is the subject of the complaint (unless the complaint is an Undirected Complaint) of the fact that the Standards Commissioner is proceeding to Stage 2.<sup>22</sup>

9.27 The Standards Commissioner will notify the Complainer (unless the complaint is an Anonymous Complaint) and the member who is the subject of the complaint (unless the complaint is an Undirected Complaint) of the fact that a complaint has been dismissed and will set out the reasons for the dismissal as appropriate.<sup>23</sup>

### **Time limits for determination of admissibility**

9.28 If the Standards Commissioner has not determined the admissibility of a complaint within two months of receipt of the complaint, the Standards Commissioner will make a report as to progress to the Standards, Procedures and Public Appointments Committee.<sup>24</sup> The Standards Commissioner will send a copy of that report to the member who is the subject of the complaint (unless the complaint is an Undirected Complaint).<sup>25</sup>

### **Further provisions in respect of Stage 1**

9.29 The provisions of paragraphs 9.31 and 9.32 below will apply to any interview by the Standards Commissioner which is carried out during an investigation at Stage 1.<sup>26</sup>

### **Stage 2 – investigation**

9.30 The Standards Commissioner will investigate any complaint which has not been dismissed at Stage 1 with a view to—

- making findings in fact as to whether or not the conduct complained about was committed; and
- reaching a conclusion as to whether or not, as a result of the conduct complained about, there has been a breach of the provisions of the Standing Orders, the Code or the Interests of Members of the Scottish Parliament Act 2006.<sup>27</sup>

### **Interviews**

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<sup>22</sup> Sections 7(2)(b) and 7(9)

<sup>23</sup> Sections 7(3); 7(6); and 7(8)

<sup>24</sup> Section 7(11) and Rule 3A.4

<sup>25</sup> Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

<sup>26</sup> Ibid

<sup>27</sup> Sections 3, 5, 6, 12, 13 and 14

9.31 If the Standards Commissioner interviews any person in the course of an investigation, the Commissioner will—

- have regard to whether that person is or appears to be a vulnerable person;
- allow that person to have a third party present at the interview;
- allow that person to have his or her views conveyed through an interpreter if that person so requests;<sup>28</sup> and
- tape-record the interview.<sup>29</sup>

9.32 At least 48 hours before interviewing any person for the first time in the course of an investigation, the Standards Commissioner will notify that person in writing of—

- the purpose of the interview;
- the powers of the Standards Commissioner to call for witnesses and evidence;<sup>30</sup>
- the procedure to be followed in connection with the investigation of the complaint including that the fact that the interview will be tape-recorded (see paragraph 9.31 above);
- the right of that person to have a third party present at the interview; and,
- the right of that person to have his or her views conveyed through an interpreter (see paragraph 9.31 above).<sup>31</sup>

## **Time limits for completion of Stage 2**

9.33 If the Standards Commissioner has not completed the investigation of a complaint within six months of the date when the Standards Commissioner found the complaint to be admissible, the Standards Commissioner will make a report as to progress to the Standards, Procedures and Public Appointments Committee.<sup>32</sup>

## **Report at Stage 2**

9.34 At the conclusion of an investigation into a complaint at Stage 2, the Standards Commissioner will make a report to the Standards, Procedures and Public Appointments Committee upon the outcome of the investigation.<sup>33</sup>

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<sup>28</sup> Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

<sup>29</sup> Ibid

<sup>30</sup> Section 13(1)

<sup>31</sup> Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002

<sup>32</sup> Section 8(3) and Rule 3A.4

<sup>33</sup> Section 9(1) and Rule 3A.4

9.35 The report by the Standards Commissioner to the Standards, Procedures and Public Appointments Committee will include—

- details of the complaint;
- details of the investigation carried out by the Commissioner;
- the facts found by the Commissioner in relation to whether or not the conduct complained about was committed by the member; and,
- the Standards Commissioner's conclusion in relation to the complaint.<sup>34</sup>

9.36 Before making a report under paragraph 9.34 above, the Standards Commissioner will give the member concerned a copy of the draft report and will give the member concerned the opportunity to make representations about the alleged breach and on the draft report.<sup>35</sup> The representations of the member will be annexed to the report in as far as they are not given effect to in the report.<sup>36</sup>

### **Stage 3 – Consideration by the Standards, Procedures and Public Appointments Committee**

9.37 A copy of any report to the Standards, Procedures and Public Appointments Committee under paragraph 9.34 will be made available to the member concerned by the clerk to the Standards, Procedures and Public Appointments Committee (“the clerk”). The clerk will ask the member to confirm in writing whether or not the member agrees with the Standards Commissioner's findings in fact or the Standards Commissioner's conclusion. The Standards clerk will also ask the member whether or not the member wishes to appear before the Standards, Procedures and Public Appointments Committee to make representations about the Standards Commissioner's findings in fact or the Standards Commissioner's conclusion.

9.38 The Standards, Procedures and Public Appointments Committee will consider in private any report of the Standards Commissioner under paragraph 9.34 and any representations by the member concerned about the Standards Commissioner's findings in fact or the Standards Commissioner's conclusion. This is in order to ensure the privacy of any further investigation into the complaint.

9.39 Following consideration of the report and any representations by the member, the Standards, Procedures and Public Appointments Committee will decide whether—

- to agree with the Standards Commissioner's findings in fact and conclusion;
- to refer the complaint back to the Standards Commissioner for further investigation or clarification; or

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<sup>34</sup> Section 9(2)

<sup>35</sup> Section 9(3)

<sup>36</sup> Section 9(3)

- to conduct its own investigation into the complaint.

9.40 The Committee's decision under paragraph 9.39 will be announced in public.

9.41 The Standards Commissioner will carry out such further investigations as the Standards, Procedures and Public Appointments Committee may direct.<sup>37</sup>

9.42 The Standards, Procedures and Public Appointments Committee will determine the procedure to be followed in relation to any investigation which it wishes to carry out itself.

9.43 If the Standards, Procedures and Public Appointments Committee finds that there has been a breach of the Standing Orders, Code of Conduct or the Interests of Members of the Scottish Parliament Act 2006, the member concerned may be afforded a further opportunity to make representations to the Standards, Procedures and Public Appointments Committee. Following consideration of any such representations, the Standards, Procedures and Public Appointments Committee will make a decision as to whether or not to recommend the imposition of sanctions against the member. If the Standards, Procedures and Public Appointments Committee decides to recommend the imposition of sanctions it will also decide in public which sanctions to recommend.

### **Stage 3 – Report to the Parliament**

9.44 Following completion of the procedure set out above and any other procedure which the Standards, Procedures and Public Appointments Committee considers appropriate, the Standards, Procedures and Public Appointments Committee will make a report to the Parliament. The Committee's report will include the Commissioner's report and any relevant evidence. The report of the Standards, Procedures and Public Appointments Committee will include-

- the Standards, Procedures and Public Appointments Committee's conclusion as to whether or not the complaint should be upheld;
- the Standards, Procedures and Public Appointments Committee's recommendation as to the sanctions (if any) which should be imposed on the member concerned;
- such other relevant information or evidence as the Committee may determine.

### **Stage 4 – Consideration of a complaint by the Parliament**

9.45 Where the Standards, Procedures and Public Appointments Committee considers that a sanction should be imposed on the member concerned, the

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<sup>37</sup> Section 10(2) and Rule 3A.3

Standards, Procedures and Public Appointments Committee will make a motion to the Parliament<sup>38</sup> which will be considered in accordance with Standing Orders.

### **Withdrawal of complaints**

9.46 Prior to the Commissioner's report to the Committee complaints other than excluded complaints may be withdrawn by the Complainer giving the Commissioner notice to that effect.<sup>39</sup>

9.47 Where a complaint is withdrawn during Stage 1, the Commissioner will cease to investigate the complaint and will inform the member concerned of that fact and of any reasons given by the Complainer for the withdrawal of the complaint.<sup>40</sup>

9.48 Where a complaint is withdrawn during Stage 2, the Commissioner will inform the member concerned of that fact and of any reasons given by the Complainer for the withdrawal of the complaint. The Commissioner will also invite the member's views as to whether the investigation of the complaint should take place despite the withdrawal of the complaint. After considering any relevant information including any reasons given by the complainer for withdrawing the complaint and any views expressed by the member, the Commissioner will decide whether or not to recommend to the Committee that the investigation of the complaint should nevertheless continue<sup>41</sup>. The Commissioner will report his decision to the Committee which will direct the Commissioner either to continue investigating the complaint or to cease investigation.<sup>42</sup>

### **Excluded complaints**

9.49 Where an Excluded Complaint has been referred to the Standards, Procedures and Public Appointments Committee under paragraph 9.1.6 (Volume 2) it will be dealt with in such manner as the Standards, Procedures and Public Appointments Committee deems appropriate. The Standards, Procedures and Public Appointments Committee may refer such a complaint to the Standards Commissioner for further investigation.

### **General role of Standards, Procedures and Public Appointments Committee in relation to conduct**

9.50 Standing Orders Rule 6.4.1 states:

#### ***Rule 6.4 Standards, Procedures and Public Appointments Committee***

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<sup>38</sup> Rule 1.7

<sup>39</sup> Section 11(1)

<sup>40</sup> Section 11(2)

<sup>41</sup> Section 11(3)

<sup>42</sup> Sections 11(5) and 11(6) and Rules 3A.3 and 3A.4

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

*(a) the practice and procedures of the Parliament in relation to its business;*

*(b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members' interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;*

*(c) the adoption, amendment and application of any Code of Conduct for members ; and*

*(d) matters relating to public appointments in Scotland.*

9.51 Standing Orders gives the Standards, Procedures and Public Appointments Committee a general role in relation to members' conduct as described in the Committee remit set out above. The Committee may therefore undertake to consider and report on any matter within this remit in relation to a member, whether or not any complaint has been received by the Committee or any matter has been referred to it and whether or not the matter has been considered elsewhere.

## **Sanctions**

9.52 If it is considered appropriate, the Parliament may decide to impose sanctions on a member. The appropriate sanction in a particular case will be decided by the Parliament on the basis of the facts and circumstances of the case. In addition, certain breaches of the requirements of the Interests of Members of the Scottish Parliament Act 2006 could constitute a criminal offence.

## **Breach of the Interests of Members of the Scottish Parliament Act 2006**

### **Parliamentary sanctions**

9.53 The Interests of Members of the Scottish Parliament Act 2006, at section 15, states:

*(1) If a member—*

*(a) has, or had, a registrable interest in any matter and has failed to register it in accordance with section 3, 5 or 6; or*

*(b) has a declarable interest in any matter and has failed to declare that interest in accordance with section 13,*

*the Parliament may, in such manner as it considers appropriate in the particular case, prevent or restrict that member from participating in any proceedings of the Parliament relating to that matter.*

The Interests of Members of the Scottish Parliament Act 2006, at section 16, states:

*Where a member fails to comply with, or contravenes, any of the provisions made by or under section 3, 5, 6, 13, 14 or 15, the Parliament may, in such manner as it may determine, exclude that member from proceedings in the Parliament for such period as it may consider appropriate.*

9.54 Section 15(1) means that the Parliament may prevent or restrict a member from participating in proceedings of the Parliament relating to a matter in which the member has, or had, a registrable interest but where the member has failed to lodge a written statement for registration in the Register of Interests about that interest, or where the interest is a 'declarable interest', has failed to make the required written or oral declaration.

9.55 Any such restriction or prohibition is limited to proceedings touching on specific matters as described in the paragraph above. But in relation to these specific proceedings the Parliament could prevent a member from doing any or all of the following:

- attending any meeting of the Parliament, committee or sub-committee in his or her capacity as a member
- initiating, contributing to or intervening in any debate
- voting
- lodging notice of a proposal for a Bill or introducing a Bill
- lodging or asking a parliamentary question
- lodging notice of or moving a motion
- lodging notice of or moving an amendment to a Bill or motion
- proposing a draft report, or moving an amendment to a draft report in a Committee
- supporting a Bill or a motion or proposal for a Bill or a motion.
- supporting an amendment to a Bill or a motion.

9.56 The extent of any restriction will be decided by the Parliament on a case by case basis. The Parliament will also decide the length of time for which it considers it would be appropriate to restrict or prevent a member from participating in proceedings of the Parliament.

9.57 Under section 16, the Parliament may exclude a member from all proceedings of the Parliament where that member fails to comply with or contravenes the Parliament's decision to prevent or restrict him or her from participating in proceedings of the Parliament under section 15 or where the member fails to comply with or contravenes the requirements of the Act in relation to:

- lodging an initial statement for registration in the Register of Interests,
- registering a new interest,

- the late registration of an interest,
- written or oral declaration of a 'declarable interest',
- paid advocacy.

### **Sanctions in relation to criminal offences**

9.58 The Scotland Act 1998, at section 39, states:

- (6) Any member of the Parliament who—*
- (a) takes part in any proceedings of the Parliament without having complied with, or in contravention of, any provision made in pursuance of subsection (2) or (3), or*
  - (b) contravenes any provision made in pursuance of subsection (4)*
- is guilty of an offence.*

9.59 This means that a member may be guilty of an offence if he or she fails to comply with, or contravenes, the requirements of the Interests of Members of the Scottish Parliament Act 2006 in relation to—

- lodging an initial statement for registration in the Register of Interests,
- registering a new interest,
- written or oral declaration of a declarable interest,
- paid advocacy

and then takes part in any proceedings of the Parliament.

9.60 On conviction for such an offence a member is liable to a fine not exceeding level 5 on the standard scale. This is currently set at £5,000.

9.61 Prosecution is not a matter for the Parliament. However, the Parliament could subsequently decide that it also wished to sanction a member found guilty of an offence.

### **Sanctions in relation to conduct at a meeting of the Parliament or committee meeting**

9.62 If the Presiding Officer decides that a member is in breach of Rule 7.3 of the Standing Orders, set out in Section 7.3 (Volume 2) of the Code, he or she may order that member to be excluded from the Chamber for a period not beyond the end of the next sitting day. In the case of a committee or sub-committee, the decision is for its Convener, who may exclude the member for the rest of the committee meeting at which the exclusion is made.

9.63 The Parliament may decide, on a motion of the Parliamentary Bureau, to exclude the member for a further period.

### **Sanctions in relation to a breach of the Reimbursement of Members' Expenses Scheme**

9.64 Where the SPCB finds that a member has made improper use of an allowance the SPCB may report this to the Standards, Procedures and Public Appointments Committee. The Standards, Procedures and Public Appointments Committee may then recommend to the Parliament that any of the member's rights and privileges be withdrawn, including under the Reimbursement of Members' Expenses Scheme Resolution the removal of all or part of the member's allowances.

### **Sanctions in relation to Cross-Party Groups**

9.65 The MSP who signs the declaration on compliance with the rules on Cross-Party Groups on behalf of a group will be held primarily responsible for a group's conduct. If the Standards, Procedures and Public Appointments Committee considers that a group has failed to comply with any of the rules on Cross-Party Groups it may withdraw a group's recognition as a Cross-Party Group, with consequent loss of access to the Parliament's facilities and any privileges generally accorded to recognised Cross-Party Groups.

9.66 Each individual MSP, however, remains responsible for all matters relating to his or her own conduct as a member of a Cross-Party Group. Any individual failure to comply with, or contravention of, the rules on Cross-Party Groups by a member could lead to the Standards, Procedures and Public Appointments Committee recommending a withdrawal of that member's rights and privileges.

### **Sanctions in relation to treatment of staff**

9.67 If the SPCB decides to refer a complaint about the treatment of staff to the Standards, Procedures and Public Appointments Committee, the Standards, Procedures and Public Appointments Committee may recommend to the Parliament that any of the member's rights and privileges be withdrawn.

### **Withdrawal of rights and privileges**

9.68 Standing Orders Rule 6.4.2, in relation to the remit of the Standards, Procedures and Public Appointments Committee, states:

*Where the Committee considers it appropriate, it may by motion recommend that a member's rights and privileges be withdrawn to such extent and for such period as are specified in the motion.*

9.69 The Standards, Procedures and Public Appointments Committee may recommend to the Parliament that any of a member's rights and privileges should be withdrawn. This would be in relation to any breach of the Code for which no specific sanction is set out in the paragraphs above. As appropriate, the Committee may also wish to make such a recommendation, in addition to other sanctions, described above, having been imposed.

9.70 As laid down in Schedule 3, paragraph 2 of the Scotland Act, the rights and privileges which the Parliament may consider for withdrawal are a member's rights and privileges as a member. The Parliament may consider the following to be appropriate in particular cases:

- exclusion of a member from proceedings of the Parliament generally or specifically, for example, proceedings at particular meetings of the Parliament or its committees.
- exclusion from other activities which a member might normally have a right to attend, such as Cross-Party Groups.
- withdrawal of a right of access as a member to the Parliamentary complex.
- withdrawal of a right of access as a member to Parliamentary facilities and services.
- removal of representational, ceremonial and related privileges which a member might normally enjoy as a member.
- withdrawal of a member's allowance or salary or any part of an allowance or salary.

9.71 The Parliament will decide on a case by case basis what rights and privileges will be withdrawn from a member and the duration of withdrawal.