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**Report of the**  
**Review of Members of the**  
**Scottish Parliament**  
**Complaints Sanctions Process**

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## Commonly used terms

<b>Code, the Code</b>	Code of Conduct for MSPs
<b>Guide, Guide to the Code</b>	Guidance on the Code of Conduct
<b>Interests</b>	Interest of Members of the Scottish Parliament
<b>MSP(s)</b>	Member(s) of the Scottish Parliament
<b>PO</b>	Presiding Officer
<b>Secretariat</b>	SPCB secretariat
<b>SO</b>	Standing order(s)
<b>SPCB, Corporate Body</b>	Scottish Parliamentary Corporate Body
<b>The Committee, the SPPAC</b>	Standards, Procedures and Public Appointments Committee

## Introduction

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This review was Commissioned by the Scottish Parliamentary Corporate Body (SPCB) in response to motion [\*\*SM6-13368\*\*](#) (as agreed). SM6-13368 considered recommendations on sanctions in relation to a specific MSP; it both imposed sanctions on the MSP concerned and called on the SPCB “to initiate an independent review of the Parliament’s complaints process to restore integrity and confidence in the Parliament and its procedures.”

The review Terms of Reference are set out in the body of the report [\*\*below\*\*](#).

The context of the review is relevant:

- Compliance with the Code of Conduct for MSPs is, ultimately, a personal responsibility. This has to be balanced with the measures Parliament requires are in place to both give assurance and confidence, and support individual MSPs.
- There have been few cases requiring sanctions. This highlights the need to be proportionate in the sanctioning process (and in the wider complaints and standards landscape).
- While other jurisdictions’ approaches highlight differences in approach, it is important to be proportionate in terms of the priorities, size and nature of the Scottish Parliament.

It is also important to note that the focus has been on **systems** not **individuals**, so findings, recommendations, and observations must be considered within that context.

As far as possible, the review has been carried out confidentially. While I have received support from the SPCB secretariat, this has been limited to administrative support, IT and providing information in relation to general questions that do not compromise confidentiality. I am grateful to the SPCB secretariat for their support, and for facilitating an independent and impartial review.

The report itself focuses on findings and recommendations, recognising that the scope of the review was on sanctions and the sanctioning process. It also contains observations on the complaints and standards landscape for reflection and to inform further discussion.

The report gives as much detail as possible, balancing commitment to confidentiality with transparency. Confidentiality was particularly important in terms of enabling free and frank discussion.

Thank you to everyone who gave their time and contributed to the review.

# Executive summary

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1. The **Terms of reference** were limited to the sanctions process, as are findings and recommendations. However, it became apparent that to understand the breadth of, and views on, the sanctions process it was necessary to have broad understanding of how it sits within the overall MSP complaints and standards landscape. It is in this respect that the report also contains wider observations and suggestions for Parliament's future consideration.
2. Complete findings, recommendations and observations are set out under **Findings, recommendations, and observations**.

## Overall finding

3. The overall findings, in summary, are:

- While there is insufficient evidence to make a finding on the fairness and impartiality of the sanctions process, views and perceptions should not be ignored. Views on the impartiality and fairness of the sanctioning process vary, but on balance *perception* is one of unfairness, or insufficient fairness, because of lack of transparency, concerns about lack of written down protocols and procedures, breaches of confidentiality, and the potential for political motivation.
- There are elements of the sanctioning process that (in terms of fair complaint handling) could be improved, to introduce greater clarity and fairness, specifically the opportunity to challenge recommendations about sanctions, and leading up to that, recommendations about breaches of the Code.
- Since the inception of Parliament, there have been few sanctions considered and recommended by the Standards, Procedures and Public Appointments Committee. Given this, and that each case is considered on the facts and circumstances at the time, and reasons for recommendations on sanctions are not always apparent, it cannot be concluded that sanctions are either consistent or inconsistent. However, perceptions are that sanctions and their severity are not consistent because of lack of transparency (see above point) and potential for political influence.

## Summary of recommendations and observations

2. **Appendix 5** contains a summary of recommendations, set out under the themes of Transparency and consistency; Awareness, training and induction; Support and advice; Confidentiality; and Political context. They contain a mix of recommendations I consider to be a priority, and those which are for longer-term consideration.

3. The immediate priority are those actions I consider will improve transparency and/ or effectiveness of the standards and complaints processes. In summary, these are (see the full report for additional details and context):

- I **strongly** recommend a factors-based approach to deciding sanctions recommendations be adopted (see **Appendix 4** for an example). While this can draw on examples from other jurisdictions, it should be designed to be Scottish Parliament specific to ensure it is proportionate to the size and scale of Parliament, and the volume of sanctions imposed over time.

- I **strongly** recommend the approach to recording and explaining reasons for recommendation decisions be reviewed.
- I **strongly** recommend the structured approach the SPPAC currently take to sanctioning (see [Appendix 2](#)) be codified and turned into a published (proportionate) process guide.
- I **strongly** recommend SPPAC publish a summary of sanctions previously applied. An example of how this might be done is contained in Annex 4 to the House of Commons standards landscape review report 2024<sup>1</sup>. Again, any decision to adopt this approach should be proportionate to the Scottish Parliament's size and scale.
- I **strongly** recommend consideration be given to articulating, and where lacking, introducing, clear review/ appeal routes for findings of breaches of the Code (and other rules) and, in particular, recommended sanctions. I recognise this would need careful consideration as set out in the findings, but the focus should be on fairness, confidence, and trust in the system, not driven by other issues.
- I **strongly** recommend that Parliament continues to make it clear that the pastoral support mechanisms that are available to staff, are available to MSPs, generally in any guidance produced in response to other recommendations, at induction, and specifically at the point a complaint is received and notified to the MSP (recognising this will require liaison with the ESC).
- I **strongly** recommend that the confidentiality requirements for ongoing investigations is reviewed to ensure both consistency and to better support all involved.

4. [Appendix 6](#) contains a summary of observations under the themes of transparency and consistency; and political context. I have not reproduced them in the summary, but are matters I draw to Parliament's attention for consideration.

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<sup>1</sup> [The House of Commons standards landscape: how MPs' standards and conduct are regulated - Committee on Standards](#)

## Terms of reference

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4. The terms of reference for this review were relatively limited, focussing specifically on the sanctions process.

### Terms of reference

To consider and report to the Scottish Parliamentary Corporate Body (SPCB) on the current process for recommending and agreeing sanctions on MSPs by the Scottish Parliament in relation to complaints in respect of their conduct, whether any reform is necessary to ensure the process is, and is seen to be, impartial, fair and transparent and commands the confidence of the public and the Parliament and what any such reforms could be.

Consideration should focus, in particular, on:

- How best to aid or promote consistency and proportionality in considering, recommending and agreeing to sanctions.
- Whether a scheme or hierarchy of sanctions, or relevant factors, or something similar, would support the desired outcomes, and if so, recommendations that would inform a draft scheme or list of relevant factors.
- How best to ensure fairness in the process, and the appearance of fairness, including the opportunity for the Member to engage with the sanctions process.
- Lessons that can be learned from other relevant legislatures.

## Approach

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5. My review started 25 September 2025. It was short (40 days in total), and within the time available focused on sanctions, and views about sanctions, predominantly from an MSP and Scottish Parliamentary perspective. In doing so, it recognises that it reflects a snapshot of views at a specific time, and of a specific group.

6. The TOR make specific reference to confidence of the general public. After discussion with the SPCB secretariat it became apparent that within the time frame available, direct public consultation would not be feasible. The Parliament published details of the review and the supporting privacy notice<sup>2</sup> on its website, creating the opportunity for anyone who wished to engage with the review, to contact me. While the views of the general public who made or may make complaints about MSPs are important, within the remit of this review complainants' views were taken into account to the extent that MSPs and/ or officials may also be complainants.

7. I was supported by the SPCB secretariat, but to maintain confidentiality as far as possible, this was limited to:

- IT provision and support

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<sup>2</sup> [Privacy notice: Review of complaints process \(complaints about MSPs\) | Scottish Parliament Website](#)

- Provision of technical and legal information about the Code of Conduct (the Code)<sup>3</sup>, Guide to the Code (the Guide)<sup>4</sup>, and Standing Orders (SO)<sup>5</sup>, including drafting and publishing the review privacy notice<sup>6</sup>, and
- General administration, including links and contacts with other jurisdictions, meetings with parliamentary officials and progress meetings/ reporting.

8. Interviews with MSPs were arranged directly by me, specifically to keep the identity of individual interviewees as confidential as possible (in particular, *see Interviews with MSPs*, below).

9. I am grateful to the SPCB secretariat for their support.

### **Literature/ published information review**

10. The literature review aimed to establish a baseline understanding and knowledge, and to inform comparative analysis. It focused on the broad areas of:

- Knowledge and understanding of the Scottish Parliament's rules and procedures, in particular in relation to MSP complaints, and sanctions procedures.
- SPPAC Reports and Scottish Parliamentary Motions.
- Other jurisdictions, with a focus on UK jurisdictions.

11. A comprehensive list of documents reviewed is in *Appendix 7* Where specific documents are referred to; they are referenced with links throughout the report.

### **Interviews with MSPs**

12. Interviews with MSPs were voluntary, and arranged and conducted one-to-one by me. I issued a general invitation to all MSPs (and a follow-up invitation) and invitations to specific MSPs or groups of MSPs. I also spoke more informally to MSPs while present in Parliament.

13. Interviews were conducted in private, confidentially and with the clear expectation of confidentiality. I recognise there is a tension between transparency and confidentiality but in the context of this review, confidentiality was critical to having free and frank discussions. Interviews were a mix of in-person and online.

14. I conducted 18 formal interviews with MSPs who had a range of experience of the complaints and sanctions process. While this is only 14.7% of all MSPs, and of itself does not provide conclusive evidence statistically, the level of consistency within the views expressed leads me to conclude a high degree of confidence can be placed in the review findings.

15. The interviews explored both the knowledge MSPs have of sanctions, complaints, and the Code; and their, or other MSPs' experience and views about transparency, impartiality, and objectivity.

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<sup>3</sup> [Code of Conduct](#) for MSPs

<sup>4</sup> [Guidance on the Code of Conduct for MSPs](#)

<sup>5</sup> [Standing Orders of the Scottish Parliament, 2024](#)

<sup>6</sup> [Privacy notice: Review of complaints process \(complaints about MSPs\) | Scottish Parliament Website](#)

## **Interviews with Commissioners and Clerks**

16. I conducted eight interviews/ meetings with: Commissioners and/ or Clerks from Westminster, the Northern Ireland Assembly, and the Senedd; the Standards Commission for Scotland; and the Ethical Standards Commissioner for Scotland.

17. The purpose of these interviews was to gain knowledge of policy, practice, and procedures, in their jurisdictions and general views about sanctions.

## **Interviews and meetings with Parliamentary officials**

18. I conducted three interviews with staff supporting the Presiding Officer (PO), the Allowances Office and the SPCB secretariat, and the SPPAC clerk. The purpose of these interviews was to gain factual knowledge and understanding of Parliamentary complaints and sanctioning policies and procedures. The interviews did not seek views on these processes.

19. I also met periodically with the SPCB secretariat to update verbally on progress and seek advice or clarification about complaints and sanctions rules, policy, and procedures.

## **Findings, recommendations, and observations**

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### **Complaints context**

20. The review TOR make general reference to members’ “Conduct” and sanctions. It became apparent very quickly that to understand the breadth of the sanctions process it was necessary to have an understanding of how it sits within the overall MSP complaints and standards landscape. While the review remit is specially looking at sanctions, to understand how complaints can, or could, reach the SPPAC, was necessary in order to understand comments and views about transparency and fairness.

21. Understanding the complaints and standards landscape also highlighted where there were inconsistencies in process that could, or could be perceived to, influence the way sanctions are applied and approved by the Chamber.

22. **Appendix 1** contains more information. The appendix is not intended to be a comprehensive summary of every aspect of the complaints and standards landscape as that was not the remit of the review. Its purpose is to summarise the main points of what information was shared during the review, to illustrate that the context in which matters may make their way to the SPPAC are themselves either insufficiently captured in written protocols or guidance, or apparently inconsistent in approach.

### **Transparency and consistency**

#### *Findings*

23. The sanctions process is generally perceived as *not* being transparent. This is exacerbated by:

- Perceptions of inconsistency in the sanctions imposed
- Concerns about breaches and/ or lack of confidentiality (there is further information here **Confidentiality**)
- The lack of a centralised source which gives easily accessible information and guidance about various aspects of the complaints and standards landscape, such as; sanctions

imposed in the past; the sanctions process followed by the SPPAC; the role and place of sanctions in the complaints and standards landscape; communication with those complained about and what they can expect at different stages of the various routes to, and at, the SPPAC; and communication with complainants, particularly about progress and the outcome of the complaint.

24. There is information in the Code, Guide and SO about what the sanctions *are*, but not about *how* the SPPAC arrive at their recommendations. The SPPAC appear to follow a structured approach (see *Appendix 2*), but this is not written down, publicised or made available automatically to either party to a complaint. This:

- could be, and is perceived to be, unfair to MSPs complained about who may not know what is expected of them, what actions they can take to prepare to interact with the SPPAC.
- is unfair to the SPPAC themselves as it risks undermining their recommendations and the care with which they are arrived at. It also relies on, and puts additional pressure on, the Convenor of the day by not giving them a framework within which to manage the discussion about sanctions in a demonstrably objective way, and to demonstrate compliance with a clear decision-making protocol.
- Risks undermining public confidence in the sanctions process and effectiveness of the Code, and ultimately, Parliament's reputation.

25. There is no centralised, easily accessible, publicly available information on what sanctions have been applied in the past, and why. While detail is made available on a case-by-case basis to the Committee, it is not a published record. Committee reports are published, but to gain a comprehensive overview would require considerable work (especially where records are archived). This undermines their deterrent effect and contributes to perceptions about lack of transparency.

26. The low number of sanctions imposed since the establishment of Parliament, and the requirement to consider each case on the facts and circumstances at the time, mean there are few clear precedents upon which to draw when considering sanctions. While the clerks helpfully provide information about previous sanctions, this can present a range, rather than a clear guide; this in turn runs the risk of sanctions being decided by negotiation at the extremes of the range, rather than reaching a clearly reasoned recommendation.

27. The sanctions are clearly defined (see *Appendix 3*) but neither the Code nor the Guidance that supports it give sufficient indication of *how* to apply them, *what* to take into account when applying them, nor *how to apply them proportionately*. This creates a risk that they will be arrived at in different ways, resulting in inconsistency – of approach and potentially outcome. This is exacerbated by the fact that Committee members, Convenors and clerks change, meaning there is no collective experience over time.

28. There are no clearly articulated mechanisms for challenging recommendations on breaches of the Code, or for the subsequent sanctions recommended.

- While it could be argued that complaints via the ESC have a *de facto* element of appeal or review against the ESC's findings in relation to breaches, in that the SPPAC test that position (see *Appendix 2*), this is not articulated in this way. This means that in practice, an MSP may not be aware of the significance of submitting a view, or attending an SPPAC

meeting. Nor is it apparent whether the same opportunity applies in other complaints routes.

- There is no right of review/ appeal to the sanctions recommended, other than the ability to lodge a motion for amendment of the SPPAC motion. Taken in conjunction with the lack of information as set out above, this raises the question of whether this is in keeping with the concepts of natural justice, and the principles of good complaints handling. This is even more significant for MSPs and Parliament as the impact may be significant on both individual MSPs and on the reputation of the Parliament in relation to operating fair processes. While the MSP concerned can make a personal statement to Parliament when considering the SPPAC motion, this is not an appeal. Compare this, for example, to the approach the Standards Commission for Scotland applies which has an appeal process<sup>7</sup> and the UK Parliament which has a specific right of Appeal<sup>8</sup>
- MSPs are not informed of recommended sanctions until shortly (usually minutes) before publication of SPPAC's report, and while this is understandable in terms of managing confidentiality, it does not preclude SPPAC from engaging with the MSP in private session.

29. The above findings and subsequent recommendations, come with a note of caution. Any mechanism enabling a request for review of recommendations (i.e. an appeal), whether of breaches or sanctions, should not be a further procedural element that can be engaged simply because someone disagrees with a recommendation.

30. An effective review/ appeal process articulates the grounds upon which a review will be accepted and conducted, including the time limits for requesting a review. Typically, this includes criteria which the requester believes has an impact on the original recommendation, such as new information (accessible or available at the time), a material error, or something which prevented the requester submitting comments at the time. Who carries out this assessment is also important in terms of perceived (and actual) fairness and transparency, as ideally it should be objective and independent.

31. Any such mechanism would also need to be considered in the context of how and when it can be exercised. For example, whether any review of recommended sanctions is carried out before the SPPAC lodge their motion before Parliament, so that Parliament can be assured about the robustness of the process and that all factors have been considered.

32. Paragraphs 29—31 above are not presented as recommendations, they are simply provided as background based on experience, to inform SPCB's and Parliament's decision-making.

#### *Recommendations*

33. I strongly recommend a factors-based approach to deciding sanctions recommendations be adopted (see [Appendix 4](#) for an example). While this can draw on examples from other jurisdictions, it should be designed to be Scottish Parliament specific to ensure it is proportionate to the size and scale of Parliament, and the volume of sanctions imposed over time.

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<sup>7</sup> Hearing Rule and Guidance [Webpage](#)

<sup>8</sup> House of Commons [Procedural Protocol](#) in respect of the Code of Conduct (pp18—21 Appeals)

- Factors (with examples for guidance) could include, seriousness of the breach, impact of the breach, aggravating factors, mitigating factors.
- Consideration should also be given to whether and to what extent this includes setting out a hierarchy of sanctions that apply for specific breaches.

34. I further recommend that in the absence of clear precedents, a series of “scenario” based examples be developed which illustrate how a recommended sanction might be arrived at in a hypothetical scenario.

- These could draw on existing experience and examples from other jurisdictions. This is not to create template decisions, but to illustrate how applying the approach could work in practice. The aim being to achieve consistency of approach.
- The scenarios (in conjunction with the previous recommendation) could also illustrate the approach that should be taken for specific breaches that should be sanctionable, or the severity of that sanction.

35. I **strongly** recommend the approach to recording and explaining reasons for recommendation decisions be reviewed.

- The factors-based approach could be used as a guide for drafting and articulating reasons.
- Consideration should be given to drafting a confidential detailed version for the MSP concerned, and a more general public version which contains as much detail as possible but excludes personal information (unless an MSP has given permission to share it). This is particularly relevant to giving reasons about how factors (if the approach is adopted) are considered and contribute to the outcome and recommendation about sanction.
- This is to improve transparency, enable individual MSPs to understand the decision, and to be as publicly informative as possible.

36. I **strongly** recommend the structured approach the SPPAC currently take to sanctioning (see [Appendix 2](#)) be codified and turned into a published (proportionate) process guide.

- The guide should also set out clearly the respective roles of the Convenor, Committee members, and others in attendance, or likely to be in attendance, at sanctioning discussions. This is to ensure all attendees are clear about what is expected of them and others.
- The guide could then be shared with MSPs during the investigation of a complaint or when a complaint is referred to the SPPAC, improving transparency and setting out expectations.
- The process guide could include considering whether and what wider changes or improvements identified during the sanctioning process should be shared by the Convenor for wider learning and improvement.

37. I recommend consideration be given as to whether SPPAC could also direct specific remedial or reparation/ restitution actions be taken by the MSP, such as refresher training (see also [Awareness, training and induction](#))

38. I **strongly** recommend SPPAC publish a summary of sanctions previously applied. An example of how this might be done is contained in Annex 4 to the House of Commons standards landscape review report 2024<sup>9</sup>. Again, any decision to adopt this approach should be proportionate to the Scottish Parliament's size and scale.

39. I recommend production of a short "Complaints Guide" to support information on Parliament's **website** on where to send a complaint. This could include information on how a complaint will be handled, where to seek advice and information, and what the parties to the complaint can expect (see also para **43 below**). The aim would be to coordinate and collate in one place information about the complaints and standards landscape for both MSPs and the public.

40. I **strongly** recommend consideration be given to articulating, and where lacking, introducing, clear review/ appeal routes for findings of breaches of the Code (and other rules) and, in particular, recommended sanctions. I recognise this would need careful consideration as set out in the findings, but the focus should be on fairness, confidence, and trust in the system, not driven by other issues. It may be that this could be considered in conjunction with findings and recommendations about Confidentiality.

### *Observations*

41. Perceptions of fairness and consistency were influenced by lack of transparency in the processes. The views expressed were along the lines of – how can sanctions be transparent if the process they are part of isn't?

42. Not everyone appreciated that there may be different routes to being sanctioned by Parliament. Complaints that were referred via the ESC were relatively well understood, largely down to the information provided by the ESC about his investigations and processes. Other routes were less well understood, or even known about.

43. As **Appendix 1** illustrates there are inconsistencies in the approaches and the amount of information available about different elements of the complaints and standards landscape, and gaps. Parliament may wish to reflect on this; whether collectively the complaints and standards landscape meets the purpose originally intended, whether it delivers an efficient and effective complaints system, and whether there should be a wider landscape review with the aim of simplification and clarification.

44. Not all breaches (or potential breaches) of the Code (and other guidance) leading to resolution or sanction are the result of complaints. There is a specific area where complaints procedures could be clarified: self-reporting/ referral. Guidance appears to be silent on this. Parliament may wish to consider their position on this - whether this appropriate, and what the consequence or resulting actions may be.

45. At the same time as this review was ongoing, the Scottish Parliament (Recall and Removal of Members) Bill<sup>10</sup> was being considered by Parliament (now at stage 2). While the bill did not

<sup>9</sup> [The House of Commons standards landscape: how MPs' standards and conduct are regulated - Committee on Standards](#)

<sup>10</sup> [Scottish Parliament \(Recall and Removal of Members\) Bill | Scottish Parliament Website](#)

inform this review; the review findings and recommendations may be relevant to its consideration. It should be stressed; this is not in relation as to whether it is enacted - that is a matter for Parliament - but to provide context to the debate.

46. The ESC publishes complaints statistics. No such information is published by the Parliamentary Corporate Body. I urge the Corporate Body to consider collating and publishing complaints data, such as number received directly by various parts of parliamentary services, how many were admissible, how many were upheld, not upheld or resolved in some other way, and how many actually resulted in sanctions. This could serve several purposes

- It puts sanctions in context
- It may inform improvements or changes to complaints or supporting policies
- It would give an indication of Parliamentary resources expended on complaints.

## **Awareness, training and induction**

### *Findings*

47. The purpose of sanctions was understood to varying extents. Most recognised that they:

- Acted as a deterrent to others (or encouragement to comply with the Code and rules)
- Were punitive. There should be personal consequences for breaching the Code, compliance with which is a personal responsibility
- Were important to building public confidence in Parliament, by demonstrating that it would not tolerate poor conduct and would act on breaches.

48. Additionally, other purposes identified were:

- To drive improvement in standards of conduct
- As an opportunity to inform wider learning and improvement

49. Knowledge and understanding of the sanctions and Code (and SO) were generally limited. Those who had direct experience (or had colleagues with direct experience), tended to be better informed, highlighting that generally, MSPs are likely to seek information at the point they need to.

50. Recollections of training received varied. Some recalled induction training, none recalled ongoing or refresher training, beyond update emails when there were changes. None mentioned training about the implications for MSPs and Parliament of being sanctioned. This latter point being of most concern as the deterrent effect of sanctions can only be effective if the potential impact is known.

51. It is understandable that recollections of induction training were vague. New MSPs are deluged with information. Their priorities over time will be different to Parliamentary priorities; for example, setting up an office and employing staff will be at the forefront, while knowledge of the Code is unlikely to be. Even different aspects of the Code and SO will be of varying priority; for example, time bound rules like registering declarations of interest will be a higher priority, than being familiar with every provision of the Code, Guidance and SO.

52. Ultimately, compliance with rules in the widest sense is an MSP's personal responsibility. However, Parliament also has an interest in terms of reputation and ensuring effective and efficient operations, so have some responsibilities to ensure MSPs have appropriate, timely, advice and training.

#### *Recommendations*

53. I recommend an induction programme is developed which:

- enables direction to be given on which elements of the complaints and standards landscape (and other rules such as SO) are a priority with an indication of when training should be completed.
- adopts an approach which breaks down the huge range of "rules" into bite sized chunks so the most important messages can be delivered early (e.g. register of interests, the impact of being sanctioned, and so on)
- adopts different media and delivery methods. This could include for example, videos, in person, recordings of sessions, narrated PowerPoint presentations, designed on-line guided modules (which could also confirm completion), focussed drop-in sessions.

I am mindful that resources and time are limited so it is important to be proportionate and measured, and for the short-term focus to be on the highest priority areas. The approach would enable a bank of resources to be developed over time which enable more self-directed learning, refresher training, and a source of reference for MSPs (and their staff, and Party business managers). It would require co-ordination between different parts of the organisation, such as Allowances Office, clerks and so on.

54. I further recommend that specific training is developed for new SPPAC members which incorporates the aims of sanctions, the Committee process and any factors-based approach developed, and confidentiality.

## **Support and advice**

#### *Findings*

55. In terms of [technical] advice about sanctions (and complaints), different MSPs sought advice in different ways at different times. For example (and by no means confined to), approaching:

- the SPPAC clerk for advice about registration of interests
- Allowances Office for information about claiming expenses or communication
- SPPAC Convenor for advice and information on sanctions
- other MSPs, including party colleagues/ business managers/ whip for advice about complaints made against them, and/ or
- SPCB (and secretariat)

56. There is no clear signposting (which can be as simple as a page of links), and where an MSP goes for advice appears to be arbitrary, their best guess or knowledge acquired over time (almost by osmosis).

57. Complaining, or being complained about can be emotionally draining, stressful and have immediate and long-term impact on health, wellbeing and effectiveness. There is currently no clearly articulated pastoral support for MSPs, who in addition to being complained about, often find themselves in the public eye because of it. It is not apparent that MSPs can access the same pastoral support resources currently available to staff.

58. MSPs can't always rely on party or colleague support, and can be reluctant to seek it.

59. While there is no duty of care in the sense of being an employer, the Parliament could be considered to have a moral duty to provide and promote pastoral care for Members. Even if that were not a shared view, there is benefit to Parliament in being a healthy, supportive and psychologically safe place to be, that focuses on the person, not the breach or sanction. For example, the Senedd website illustrates the approach they take<sup>11</sup>. Westminster offers MPs support in several ways, for example The ICGS Helpline which supports those affected by bullying, harassment and sexual misconduct, including those accused<sup>12</sup>.

#### *Recommendations*

60. I recommend thought be given to ensuring a consistent message (ideally at induction) about where to seek technical advice and guidance about sanctions (and complaints).

61. **I strongly recommend** that Parliament continues to make it clear<sup>13</sup> that the pastoral support mechanisms that are available to staff, are available to MSPs, generally in any guidance produced in response to other recommendations, at induction, and specifically at the point a complaint is received and notified to the MSP (recognising this will require liaison with the ESC).

62. I also recommend it explores with MSPs opportunities for mentoring or peer support networks (with past and current) colleagues. The next session of Parliament will be challenging in many ways with a significant proportion of new MSPs who will likely need wider support, or someone they trust to speak to confidentially.

## **Confidentiality**

#### *Findings*

63. Lack, or breaches of, confidentiality, have a significant impact on trust and confidence in the sanctioning process.

- This report focuses on the sanctioning process and actions which may influence it, or undermine the SPPAC, including breaches of confidentiality.

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<sup>11</sup> [Support when making a complaint](#)

<sup>12</sup> [Get help: The ICGS helpline - UK Parliament](#)

<sup>13</sup> I note that this information has recently been included in the Corporate Bulletin email

- However, it should be noted that concerns about confidentiality in some processes up to the point a matter is referred to the Committee, also, in my view, contribute to the general perception of confidentiality within the complaints and standards system.

64. Breaches by the Committee about progress, discussions, outcome and who is subject to the complaint are the most damaging in my view. These are not necessarily intentional. While there are examples of individuals recusing themselves, once information is public it cannot be made unpublic. This both undermines the individual(s) concerned and confidence in the SPPAC. It can also create more work for the SPPAC, as they potentially become the subject of complaints about breaches of the Code themselves.

65. Anonymous or untraced breaches and leaks I would argue, have an even greater negative effect as they call into question MSPs' and officials' conduct and reliability more widely, especially as nobody can be held to account.

66. In terms of processes up to the point complaints reach SPPAC, investigations by the ESC are required to be carried out in private. This is common for Commissioner and Ombudsman type roles. I accept that this does not prevent the parties themselves sharing information, but it does provide a degree of support and protection until the outcome of a complaint, and the resulting sanctions (if any) are made public.

67. Other processes in the complaints and standard landscape do not appear to operate in the same way, nor actively make information publicly available. I recognise from experience, that there may be situations where the media has publicly featured a complaint but that of itself does not automatically mean that the Parliament, Corporate Body, or officials engage with them. I acknowledge that decisions about what and when to communicate can be challenging, and that they need to be balanced with public interest, privacy rights of MSPs (and others) and the reputation of Parliament. From my (albeit) limited observations, part of the challenge has arisen because it is the management of information made, or expected to be made public, that fundamentally guided actions, rather than the privacy and wellbeing of the people involved.

68. While not strictly a breach of confidentiality, what SPPAC members say publicly about matters that are likely be referred to them at some point in the future can have an impact on perceptions of confidentiality and fairness. I recognise and acknowledge that SPPAC members are in a difficult position as they are also MSPs and/ or party members. They have every right to express views (and indeed it may be expected of them in other roles). However, as Committee members they face the challenge of balancing this with their commitment to being an SPPAC member and not undermining perceptions of fairness and objectivity of decision-making. It is not clear what advice is available to them, and whether there are actions (such as recusing themselves) they are formally expected or required to take. I am in no doubt that the Convenor (of the time) and SPPAC colleagues would be available to give advice as needed, but this is different from having a transparent approach that is available to all.

### *Recommendations*

69. I recommend that advice and awareness training be given to SPPAC members (particularly new members) about

- what action they should take should a matter they have previously commented on be referred to the SPPAC, and what considerations they might give to such

communications. The aim would be to support members not provide a restrictive set of rules.

- potential communication pitfalls and how to avoid them. The aim would be to support SPPAC members. This does not have to be complex, long, or formal.

70. I **strongly** recommend that the confidentiality requirements for ongoing investigations is reviewed to ensure both consistency and to better support all involved.

## Political context

### *Findings*

71. One of the strongest messages to emerge from my review, was the potential for political influence in the sanctioning process. I heard phrases like politicisation, political weaponisation and undue political influencing in relation to sanctioning (and complaints).

72. My findings are evidence based. There is no clear evidence that this has happened, or does happen. There is, however, sufficient information to form a view that there is a real risk in this respect, and that current approaches can fuel speculation or perceptions of political influence and bias.

73. I stress, this is not a comment on any individual or group of individuals, but on the system itself. I also recognise the reality that this is Parliament and so by definition a political environment.

74. The predominant factors which affect perceptions are:

- MSPs (the SPPAC) sit in judgement of their peers. The system relies on SPPAC members leaving their “colours” at the door and being trusted to operate objectively and independently. Views on this cover a spectrum from Parliament should be seen to keep its own house in order, to the application of sanctions should be entirely independent (in the same way that sanctions are applied to Councillors<sup>14</sup>).
- Lack of transparency and clarity of the sanctioning process leads to lack of understanding of how and why recommended sanctions are arrived at, creating the potential for speculation of other drivers or reasons.

75. Other jurisdictions have addressed this in different ways, for example Westminster Committee on Standards have 14 members, seven of whom are lay members (it is chaired by an MP)<sup>15</sup>. Notwithstanding the concerns about risk of politicisation, my view is such an approach would be disproportionate for the Scottish Parliament, not only because of its size, but also because of the relatively small number of sanctionable complaints. While the number of interviews was, as explained earlier, relatively low, what I heard suggests the appetite lies with Parliament “keeping its own house in order”; i.e. MSP, not lay membership.

76. That said, there is work to do here to restore the trust and confidence that appears to have been undermined over time.

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<sup>14</sup> [Sanctions | The Standards Commission for Scotland](#)

<sup>15</sup> [Committee on Standards - Membership - Committees - UK Parliament](#)

## *Recommendations*

77. I reinforce the recommendations above (at **Recommendations**) about having transparency of process and clarity of reasons for decisions, and training for new members of SPPAC. Transparency in these areas, will help demonstrate the objectivity of SPPAC decision-making.

78. I recommend that Parliament reflect on my comments above and form a view about whether the SPPAC membership should change or introduce external scrutiny in some way. For example, when sanctions are being considered in private there is an independent observer who does not take part in decision-making but can confirm process was followed, or whether there is more scope for the clerk to provide this assurance. To be clear, I am not recommending a course of action as it is part of a wider issue, but in the context of building trust, that Parliament actively consider it.

## *Observations*

79. I have restricted findings to the sanctions process, in line with the TOR.

80. I have also observed that potential for actual or perceived politicisation of the wider complaints process exists. This can manifest itself in two broad ways:

- Complaints can be made against individuals for political purposes
- MSPs may refrain from making legitimate complaints because they do not want to be perceived as acting politically.

81. The motivation for complaining about potential breaches of the Code is irrelevant in so far as how it is investigated. Investigations of alleged breaches (and the decision to open investigations) are evidence-based<sup>16</sup>. However, the very fact a complaint is made can have an impact. It also creates a risk that time, effort and resource is put into finding alleged breaches about which to complain.

82. This is potentially disruptive, destructive and can result in avoidable expense to the Parliament. That there are unmade complaints, should be worrying, as it means that potentially, there is unacceptable conduct going undetected and unaddressed.

## **Final word**

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83. This report will be submitted to the Scottish Parliamentary Corporate Body for their consideration and decision about what to refer to the Parliament for approval or further consideration.

**END**

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<sup>16</sup> Motivation for complaining was discussed by the [UK] [\*Parliamentary Commissioner for Standards in his 2024–25 Annual Report\*](#) (pp12–14)

## Appendix 1

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This appendix is not intended to be a comprehensive summary of every aspect of the complaints and standards landscape as that was not the remit of the review. Its purpose is to summarise the main points of what information was shared during the review, to illustrate that the context in which matters may make their way to the SPPAC are themselves either insufficiently captured in written protocols or guidance, or apparently inconsistent in approach.

### **Overview of the complaints and standards landscape**

1. The review TOR make general reference to members’ “Conduct”. While the review remit is specially looking at sanctions, it became apparent that to understand comments about transparency and fairness, it was necessary to have a broad understand how complaints can, or could, reach the SPPAC. This appendix does not reflect a detailed review of complaints landscape, but of information considered or shared during the review.
2. Understanding the complaints and standards landscape also highlighted where there were inconsistencies in process that could, or could be perceived to, influence the way sanctions are applied and approved by the Chamber.
3. The MSP Code of Conduct includes sections on:
  - Registration and declaration of Interests, sections 1—3
  - Paid advocacy, section 4
  - Lobbying and access to MSPs, section 5
  - Cross-party groups, section 6
  - MSPs’ general conduct (including expenses and Parliament policies), section 7
  - Engaging with constituents, section 8
  - Enforcement of the rules, section 9
4. Section 9 (para 4) of the Code states:

#### **“Complaints**

Complaints, in relation to the conduct of Members of the Scottish Parliament under the Code, are initially investigated by the Commissioner for Ethical Standards in Public Life in Scotland (“the Ethical Standards Commissioner”).

Exceptions to this procedure are set out below as ‘Excluded Complaints’.”

5. Section 9 (para 6) goes on to list the excluded complaints (about MSPs) that are not investigated by the ESC.
6. Complaints guidance is inconsistent in how and where processes are explained. The most obvious example being in relation to complaints investigated by the ESC which is in the Guidance (reflecting the provisions in the Scottish Parliamentary Standards Commissioner Act 2002<sup>17</sup>). Section 9 (paras 1—48) sets out the four-stage overview of the complaints process for those

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<sup>17</sup> Sections 5—12

complaints investigated by the ESC. These are also covered in detail in the ESC's Investigations Manual<sup>18</sup>.

7. Compare this to the process for complaints about engagement with constituents which is in the Code itself in section 9 paragraphs 7—10. These paragraphs set out both how to complain about engagement with constituents and an overview of the process, but not to the same level of detail as the guidance on complaints made via the ESC.

8. Even guidance on where to direct complaints to is inconsistent.

- Scottish Parliament's website<sup>19</sup> sets out where to direct different types of complaints about MSPs, under the headings of General conduct, conflict of interest or lobbying, Conduct in Parliament, Constituency issues, Use of Parliament resources or allowances, and Something an MSP had done in their role as a Government Minister.

While it sets out how to complain, the website provides no information about how the complaint will be handled, what the parties can expect, or potential outcomes. While it provides a link to the Code and Guidance, which as illustrated in paragraph 6 above is contained in various places and documents making it challenging to understand how complaints will be handled.

- The ESC's website<sup>20</sup> acknowledges that he cannot investigate some complaints, but directs potential complainants to complete an ESC form, with no reference to the information on the Parliament's website. In practice, the ESC will inform complainants about where they should direct complaints to, but for some people that will add a step that might be avoided.

9. Both approaches are helpful at the point of contact, but serve to illustrate the wider point covered elsewhere in this report about clarity and consistency of information.

10. In practice, complaints that may ultimately find their way to the SPPAC, either for sanction or for further consideration, are made to ESC, SPCB secretariat, Committee Convenors, PO's office, the PO, or the Allowances Office. What complainants (whether members of the public or MSPs themselves) are told about how their concerns will be investigated and what involvement and communication they can expect varies. This is not a comment about the robustness of the individual elements of the complaints and standards landscape, but an observation about the coherence of the complaints and standards landscape.

11. This context is important, because transparency of the complaints process and who makes decisions and when, impacts directly on perceived transparency of the sanctioning process. This was reinforced by views shared at interview, including with Commissioners across the UK.

12. While my findings and recommendations do not address the wider landscape, I have shared my observations for Parliament to reflect on and consider. It is important to note that references to lack of evidence and clarity, do not automatically mean evidence is non-existent, merely that my review of sanctions did not pursue it in detail, or identify it.

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<sup>18</sup> [Investigations Manual | Ethical Standards Commissioner](#)

<sup>19</sup> [Complain about an MSP | Scottish Parliament Website](#)

<sup>20</sup> [Investigation Process MSPs | Ethical Standards Commissioner](#)

## High level overview of decisions about breaches and sanctions

13. This section summarises the published information about complaints routes, and decisions about breaches and sanctions. It draws on published information in the Code, Guidance, and other policies.

14. It does not contain every detail but gives an overview of the salient points.

### *Ethical Standards Commissioner route*

15. Complaints investigated by the ESC are summarised on the Parliament's website (if deemed to be admissible)<sup>21</sup>

- The ESC sets out his conclusions about whether or an MSP has (or has not) breached the Code. His draft report is shared with the MSP concerned, whose representations will be "annexed to the report in as far as they are not given effect to in the report"<sup>22</sup>.
- The ESC makes findings in fact and reaches a conclusion about breaches, but the ESC is not responsible for final determination of whether there has been a breach.
- The ESC's report is referred to the SPPAC for consideration (Stage 3 of the four-stage process).

16. The clerk will ask the MSP concerned to confirm in writing whether they agree with the ESC's conclusions, whether there are any further written representations on the ESC report that they wish to make and whether they would wish to make oral representations to the Committee in person.

17. The SPPAC, in summary, makes a finding about whether they agree with the ESC's findings on the complaint, and where it does, and concludes there has been a breach, will go on to consider whether to recommend imposition of sanctions. The Guidance could make it clearer that this discussion is in private, and their recommendations are not made public at this point. There is no specific Guidance on **how** the recommended sanction or its severity is arrived at, **what** the SPPAC should take into account. See **Appendix 2** for more detail on the SPPAC approach.

18. SPPAC makes a motion (at stage 4 of the four-stage process) to Parliament about whether the breach should be upheld and what any recommended sanction should be, to consider in accordance with SOs<sup>23</sup>. Whether the decision there has been a breach of the Code is made by the SPPAC or the Parliament, is ambiguous in the Guidance.

19. MSPs are informed of the recommended sanction shortly before the SPPAC's decision is made public. There is no provision in the Guidance for how much notice the MSP should be given.

20. The ultimate decision about sanctions (in relation to complaints via the ESC) is made by Parliament.

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<sup>21</sup> [Complain about an MSP | Scottish Parliament Website](#), General conduct, conflict of interest or lobbying

<sup>22</sup> Guidance on the Code of Conduct for members of the Scottish Parliament, Section 9 para 36

[170abc776e82429986b01fe00219ef0d.ashx](#)

<sup>23</sup> Standing Order Rules [1.7 to 1.7B](#)

### *SPCB route*

21. Complaints made to the SPCB<sup>24</sup> include

- Compliance with the members' expenses scheme, and
- Compliance with SPCB Policy on members' parliamentary-funded communications

22. The Code and Guidance do not contain specific guidance on how complaints should be investigated. Section 9 paragraph 65 of the Guidance makes provision for the SPCB to report findings of improper use of a Parliamentary Allowance under the Members' Expenses Scheme. It goes on to provide for SPPAC to recommend sanction (withdrawal of rights and privileges).

23. The Guidance does not give any indication of who makes the decision there has been a breach of policy (and hence the Code). While it refers to SPCB making a finding, the guidance is ambiguous as to whether that is a decision and what the SPPAC's role is (if any) in relation to testing that finding. This reflects earlier comments and findings in the report about lack of coherence in the way information is presented in relation to complaints.

24. The Guidance, the Code and the relevant policies (para 21 above) are silent on the process the SPCB should follow to investigate and report, and on the process the SPPAC should follow, including the opportunity for the MSP concerned to make representations.

25. It should also be noted that a matter may be referred to the SPPAC, even if a complaint is not made, but emerges through the processing of an expenses claim.

### *Complaints directly to the SPPAC*

26. Complaints are occasionally received by the SPPAC. Where these are appropriate to another process, such as the ESC, complainants will be advised and directed to that effect. The SPPAC can only look at complaints about Cross Party Groups.

27. Complaints may also be referred to the SPPAC by the PO but clear guidance about this is lacking and understanding of when and in relation to whom, varies considerably.

28. It appears there is no specific process or protocol for investigation of complaints which fall within the SPPAC's remit, nor how the complainant is kept updated and informed of progress. Nor is there evidence that Convenors and/ or clerks (who provide support) receive training or advice about how to investigate or respond to such concerns.

29. In terms of reviews/ appeals, the complainant may, if they are dissatisfied with the way a complaint was handled by the PO refer the matter to SPPAC (although this does not appear to be well known). It is unclear whether the same opportunity applies to the person complained about.

### *Complaints to the PO*

30. The PO (or DPO where relevant) usually addresses conduct breaches in Chamber as they occur, and may direct an MSP leaves the Chamber. These incidents are not complaints, so in the strictest sense, any direction from the PO is not a sanction. However, they illustrate an important

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<sup>24</sup> [Members' expenses | Scottish Parliament Website](#)

principle, that it is for the PO to consider, decide and respond to complaints made about incidents the PO may not have seen at the time.

31. The PO will also consider complaints about Convenors' conduct in committee, and about engagement with constituents. Complaints about other MSPs' conduct in Committee are made to the relevant Convenor.

32. The PO will initially consider whether a complaint is admissible (i.e. could amount to a breach of the Code). If it does, the PO will communicate with the MSP complained about for their comment. The PO will decide whether an allegation is upheld, and what action should be taken – such as apologising – although it is unclear whether the complainer is made aware of the outcome (if not obvious from an apology).

33. It is, in theory, possible for the PO to decide there has been a breach, but to refer the matter to the SPPAC to recommend sanctions. However, this has never occurred, and so questions have never been raised about the protocol for the SPPAC to consider them<sup>25</sup>. This is understandable.

#### *Parliamentary Debate*

34. For complaints referred to SPPAC, the final stage is a motion to Parliament with a recommendation about sanctions.

35. Understanding about whether and to what extent Parliament engage in debate, including debate about any personal statements is not clear from the information considered. Contributors expressed varying understanding – again something which could helpfully be clarified in guidance.

36. Parliament vote on whether to accept the recommendations.

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<sup>25</sup> Standing Orders rule 1.7 here which gives the SPPAC a general role in relation to withdrawal of rights and privileges

## Appendix 2

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### Summary of SPPAC sanctioning approach

This summary applies to complaints referred for consideration of sanctions referred through the Ethical Standards Commissioner and Scottish Parliamentary Corporate Body. It does not contain every point of detail but sets out the broad approach followed. The steps below are usually taken across two meetings, but that number is not specified or prescribed.

1. The Committee members receive a hard copy report, along with representations made by the MSP who is the subject of the complaint and a procedural note. These are given a number, unique to each Committee member, and watermarked.
2. Parliamentary officials who provide support to the Committee attend the meeting, including clerks and staff from the office of Solicitor to the Scottish Parliament.
3. The Convenor directs Members to the procedural note. The Convenor also confirms that the only people who can talk about the case are Committee, and the only time they should, is at committee.
4. Timescales are considered, the aim for shortest possible timescale maintaining natural justice.
5. The Committee read and discuss the report (where referred to them in this way, e.g. through the ESC), essentially to test the findings – not remake them. They consider a series of questions, guided by previous procedure and the clerk. In essence
  - 5.1. Is there anything else need to know to enable agree/ disagree with report (usually the ESC) findings?
  - 5.2. Should ESC (or SPCB if not an ESC report) carry out further investigation? If so, it may be referred back.
  - 5.3. If no further investigation is required, do the Committee want to hear from the MSP (or others) at this point (for clarification)? If so, the MSP may be invited to make further submissions in person or in writing.
  - 5.4. Questions are asked of the MSP, interrogating their representations about the report findings.
  - 5.5. If the Committee were any doubt about the content of the report, the Committee has the option of asking for further information, clarification from the investigating body or requesting further investigation.
6. Once this part of the process is complete, the Committee asks themselves, do they agree with the (ESC's) findings and conclusions on the breach?
  - 6.1. If yes, and their finding is there is a breach, the MSP is invited to make further representations.

7. The Committee then discusses and decide whether there should be a sanction. They are supported by the clerk towards relevant matters to consider.
8. When the Committee have decided there should be a sanction and what that sanction is, they then discuss severity, i.e. the duration of the sanction if applicable. The Clerk provides details of previous sanctions recommended and what possible parameters are.
9. While previous sanctions may be relevant or informative, the Committee is reminded they are not precedent bound as each case turns on its particular facts and circumstances. Decision-making needs to include reason for sanctions, and severity recommended.
10. The final recommendation is confirmed by vote (if not unanimous).
11. Up to this point, proceedings have been in private (noting that for some of the process the MSP may have been in attendance to make representations). The Committee continues in private to agree the terms of the report to Parliament. The report is published and includes relevant documents such as written submissions, and (where applicable) the ESC's report. The MSP concerned is informed shortly (usually minutes) before documents are made public.
12. The motion is prepared and submitted to Parliament.

## Appendix 3

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### Parliamentary sanctions

#### *Withdrawal of rights and privileges as an MSP*

1. The Parliament has a broad power to withdraw a member's rights and privileges as an MSP. Paragraph 2 of Schedule 3 to the Scotland Act (as introduced by section 22) provides as follows,

*“Withdrawal of rights and privileges*

The standing orders may include provision for withdrawing from a member of the Parliament his rights and privileges as a member.”

Rule 1.7 of the Standing Orders goes on to provide,

“The Parliament may, on a motion of the committee mentioned in Rule 6.4 [the SPPA Committee], withdraw from a member that member's rights and privileges as a member to such extent and for such period as are specified in the motion.”

2. The rights and privileges that may be withdrawn under this power are wide-ranging and could potentially range from loss of ceremonial or representational privileges, to exclusion from the proceedings of the Parliament and the wider parliamentary complex and/or withdrawal of salary. Whilst “proceedings of the Parliament” is not exhaustively defined in the Scotland Act, section 126 confirms that it extends to Committee proceedings, “proceedings”, in relation to the Parliament, includes proceedings of any committee or sub-committee. It can also be applied to the lodging of parliamentary questions and motions.
3. Paragraph 69 of the guidance on the Code of Conduct gives the following non-exhaustive list of examples-
  - exclusion of a Member from the 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; and
  - withdrawal of a Member's allowance or salary or any part of an allowance or salary.
4. Paragraph 70 of the guidance on the Code of Conduct goes on to indicate, “The Parliament will decide on a case-by-case basis what rights and privileges will be withdrawn from a Member and the duration of the withdrawal.”

*Parliamentary sanctions under the Interests of Members of the Scottish Parliament Act 2006*

5. Where a breach of a relevant provision involves a breach of the core requirements of the 2006 Act, the most relevant sanctions are those set out in sections 15 to 17A of the Interests of Members of the Scottish Parliament Act 2006.
6. Section 39 of the Scotland Act on Members' interests envisages provision on members financial interests that is "made by or under Act of the Scottish Parliament" (section 39(8) of the Scotland Act 1998).
7. Of relevance to parliamentary sanctions are subsections (5) to (7) of section 39 which provide as follows,

“(5) Provision may be made for—

- (a) excluding a member from the proceedings of the Parliament,
- (b) imposing on a member such other sanctions as the Parliament considers appropriate,

if the member fails to comply with, or contravenes, any provision made in pursuance of subsections (2) to (4) [provision made requiring members to register and declare financial interests, preventing or restricting participation in proceedings relating to a matter in which a member has a registrable financial interest, or prohibiting paid advocacy].

(5A) Provision made under subsection (5) may include provision that a sanction is not to be imposed in such circumstances as are specified in the provision.

(6) Provision made under subsection (5) may include provision that the member is guilty of an offence.

(7) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

8. This provision in section 39 forms the background to the provision found in sections 15 to 17A of the 2006 Act on preventing and restricting participation in the proceedings of the Parliament (s. 15), exclusion from the proceedings of the Parliament (s. 16), criminal offences (s. 17) and other parliamentary sanctions (s. 17A).
9. Section 16 deals with exclusion from the proceedings of the Parliament where a member has failed to comply with or contravened certain provisions of the 2006 Act— s. 3 (initial registration), s. 5 (registration of newly acquired interests), s. 6 (late registration provision), s. 8A(4)&(5) (notice of changes to a controlled transaction), s. 13 (declaration of interests) or s. 14 (prohibition on paid advocacy) or a measure taken by the Parliament under s. 15 on preventing or restricting participation. Under section 16 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.”
10. Section 17A (Other sanctions) sets out a range of other parliamentary sanctions that may be imposed where there is a contravention, or failure to comply with, sections 3, 5, 6, 8A(4)&(5),

13, or 14 or a measure taken by the Parliament under section 15 or 16 of the 2006 Act.<sup>26</sup> Section 17A(1) permits the Parliament by resolution (resolving by motion) to do one or more of the following—

- exclude the member, for such period as the Parliament determines, from the premises of the Parliament or such part of them as it determines [“premises” includes places to which the public has access (section 17A(3)(a))];
- withdraw, for such period as the Parliament determines, the member’s right to use the facilities and services provided for members by the Parliamentary corporation or such of them as the Parliament determines.
- censure the member.

This last bullet point relates to a motion of censure by which the Parliament could formally censure or register its disapproval of a member’s conduct where there have been breaches of the applicable requirements in the 2006 Act.<sup>27</sup>

11. Section 17(2) makes provision on withdrawal of salary or allowances, or both as follows,

“Where a member is to be excluded from proceedings in the Parliament under section 16 or from the premises of the Parliament (or a part of them) under subsection (1)(a), the Parliament may also by resolution, disallow payment of—

- (a) the salary that would otherwise be payable to the member in respect of such period (not exceeding the duration of the exclusion) as it determines.
- (b) the allowances that would otherwise be payable to the member in respect of such period (not exceeding the duration of the exclusion) as it determines; or
- (c) both.”

The provision in section 17(2) of the 2006 Act on withdrawal of salary, allowances, or both is therefore contingent on an exclusion from proceedings or the wider parliamentary premises (or part of them) and the duration of that exclusion. In respect of Code of Conduct breaches more generally, the Parliament’s power to withdraw rights and privileges, further to a motion of the Parliament under Standing Order Rule 1.7, allows some further discretion as to the combination and duration of sanctions.

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<sup>26</sup> The Scotland Act 2012 had amended section 39 to give the Parliament greater flexibility as to what the Parliament could provide for (by or under an Act of the Scottish Parliament) by way of sanctions for failures to comply with, or contraventions of, provision made by it in pursuance of section 39 on members’ interests. Previously a criminal offence had been set out on the face of section 3. The amendments made the offence provision a matter for the Parliament’s discretion (set out in section 17 of the 2006 Act), and also permitted the Parliament to make provision for imposing on a member such other sanctions as the Parliament considers appropriate (s. 17A).

<sup>27</sup> Standing Order [Rule 1.7A provides](#), “The Parliament may, on a motion of the committee mentioned in Rule 6.4 [the SPPA Committee], censure a member under section 17A of the Interests of Members of the Scottish Parliament Act 2006 (asp12) (“the Interests Act”).”

12. Section 15 deals with preventing or restricting participation in proceedings of the Parliament where a member has failed to register an interest in accordance with ss. 3 (initial registration), 5 (registration of newly acquired interests) or 6 (late registration provision) or has failed to declare an interest in accordance with section 13. In such a case, “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.” There is a preventive dimension to section 15, enabling the Parliament to take steps to prevent further breaches that might arise were a member to continue to take part in the proceedings in the face of registration or declaration failures.
13. Section 17 makes available a supporting criminal offence. That arises where a person takes part in any proceedings of the Parliament without having complied with, or in contravention of sections 3, 5, 6, 8A (4) & (5) or 13 or a measure taken by the Parliament under sections 15 or 16; or contravenes section 14 (paid advocacy prohibition). On summary conviction a person is liable to a fine not exceeding level 5 on the standard scale (£5000). To date, no prosecution has been initiated relative to this offence. Reports from the Ethical Standards Commissioner are from time to time submitted to the CoPFS – as is required where the Commissioner is satisfied where the member has committed the conduct complained about and that conduct would, if proved, constitute a criminal offence, further to paragraphs 3(15) and (16) of the 2022 Directions from the SPPA Committee to the Ethical Standards Commissioner.

## Appendix 4

### Example of factors-based approach

This example of a factor-based approach is from The House of Commons standards landscape: how MPs' standards and conduct are regulated. Third Report of Session 2023–24<sup>28</sup>, Annex 8 (p128).

The example is to illustrate the approach; it is not a suggestion that the Scottish Parliament should simply adopt the framework. Should the approach be adopted, the detail would need to be specific and proportionate to the Scottish Parliament

## Annex 8: Aggravating and mitigating factors in Code of Conduct cases

Extract from Committee on Standards, Seventh Report of Session 2019–21, Sanctions in respect of the conduct of Members (HC 241), para 80 [report approved by House, 21 April 2021]

Aggravating factors
Non-cooperation with the Commissioner or the investigation process; concealing or withholding evidence
Seniority and experience of the Member
Racist, sexist or homophobic behaviour
Use of intimidation or abuse of power
Deliberate breach or acting against advice given
Motivation of personal gain
Failure to seek advice when it would have been reasonable to do so
A repeat offence, or indication that the offence was part of a pattern of behaviour
Any breach of the rules which also demonstrates a disregard of one or more of the General Principles of Conduct or of the Parliamentary Behaviour Code.

Mitigating factors
Physical or mental ill health, or other personal trauma
Lack of intent to breach the rules (including misunderstanding of the rules if they are unclear)
Acting in good faith, having sought advice from relevant authorities
Evidence of the Member's intention to uphold the General Principles of Conduct and the Parliamentary Behaviour Code
Acknowledgement of breach, self-knowledge and genuine remorse

<sup>28</sup> [The House of Commons standards landscape: how MPs' standards and conduct are regulated](#)

## Appendix 5

### Summary of recommendations

#### *Transparency and consistency*

See report *on page 3*

1. **I strongly** recommend a factors-based approach to deciding sanctions recommendations be adopted (see *Appendix 4* for an example). While this can draw on examples from other jurisdictions, it should be designed to be Scottish Parliament specific to ensure it is proportionate to the size and scale of Parliament, and the volume of sanctions imposed over time.
  - Factors (with examples for guidance) could include, seriousness of the breach, impact of the breach, aggravating factors, mitigating factors.
  - Consideration should also be given to whether and to what extent this includes setting out a hierarchy of sanctions that apply for specific breaches.
2. I further recommend that in the absence of clear precedents, a series of “scenario” based examples be developed which illustrate how a recommended sanction might be arrived at in a hypothetical scenario.
  - These could draw on existing experience and examples from other jurisdictions. This is not to create template decisions, but to illustrate how applying the approach could work in practice. The aim being to achieve consistency of approach.
  - The scenarios (in conjunction with the previous recommendation) could also illustrate the approach that should be taken for specific breaches that should be sanctionable, or the severity of that sanction.
3. **I strongly** recommend the approach to recording and explaining reasons for recommendation decisions be reviewed.
  - The factors-based approach could be used as a guide for drafting and articulating reasons.
  - Consideration should be given to drafting a confidential detailed version for the MSP concerned, and a more general public version which contains as much detail as possible but excludes personal information (unless an MSP has given permission to share it). This is particularly relevant to giving reasons about how factors (if the approach is adopted) are considered and contribute to the outcome and recommendation about sanction.
  - This is to improve transparency, enable individual MSPs to understand the decision, and to be as publicly informative as possible.

4. I **strongly** recommend the structured approach the SPPAC currently take to sanctioning (see [Appendix 2](#)) be codified and turned into a published (proportionate) process guide.

- The guide should also set out clearly the respective roles of the Convenor, Committee members, and others in attendance, or likely to be in attendance, at sanctioning discussions. This is to ensure all attendees are clear about what is expected of them and others.
- The guide could then be shared with MSPs during the investigation of a complaint or when a complaint is referred to the SPPAC, improving transparency and setting out expectations.
- The process guide could include considering whether and what wider changes or improvements identified during the sanctioning process should be shared by the Convenor for wider learning and improvement.

5. I recommend consideration be given as to whether SPPAC could also direct specific remedial or reparation/ restitution actions be taken by the MSP, such as refresher training (see also Awareness, training and induction)

6. I **strongly** recommend SPPAC publish a summary of sanctions previously applied. An example of how this might be done is contained in Annex 4 to the House of Commons standards landscape review report 2024<sup>29</sup>. Again, any decision to adopt this approach should be proportionate to the Scottish Parliament's size and scale.

7. I recommend production of a short "Complaints Guide" to support information on Parliament's [website](#) on where to send a complaint. This could include information on how a complaint will be handled, where to seek advice and information, and what the parties to the complaint can expect (see also para 43 above). The aim would be to coordinate and collate in one place information about the complaints and standards landscape for both MSPs and the public.

8. I **strongly** recommend consideration be given to articulating, and where lacking, introducing, clear review/ appeal routes for findings of breaches of the Code (and other rules) and, in particular, recommended sanctions. I recognise this would need careful consideration as set out in the findings, but the focus should be on fairness, confidence, and trust in the system, not driven by other issues. It may be that this could be considered in conjunction with findings and recommendations about Confidentiality.

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<sup>29</sup> [The House of Commons standards landscape: how MPs' standards and conduct are regulated - Committee on Standards](#)

## *Awareness, training and induction*

See report [on page 8](#)

9. I recommend an induction programme is developed which:

- enables direction to be given on which elements of the complaints and standards landscape (and other rules such as SO) are a priority with an indication of when training should be completed.
- adopts an approach which breaks down the huge range of “rules” into bite sized chunks so the most important messages can be delivered early (e.g. register of interests, the impact of being sanctioned, and so on)
- adopts different media and delivery methods. This could include for example, videos, in person, recordings of sessions, narrated PowerPoint presentations, designed on-line guided modules (which could also confirm completion), focussed drop-in sessions.

I am mindful that resources and time are limited so it is important to be proportionate and measured, and for the short-term focus to be on the highest priority areas. The approach would enable a bank of resources to be developed over time which enable more self-directed learning, refresher training, and a source of reference for MSPs (and their staff, and Party business managers). It would require co-ordination between different parts of the organisation, such as Allowances Office, clerks and so on.

10. I further recommend that specific training is developed for new SPPAC members which incorporates the aims of sanctions, the Committee process and any factors-based approach developed, and confidentiality.

## *Support and advice*

See report [on page 9](#)

11. I recommend thought be given to ensuring a consistent message (ideally at induction) about where to seek technical advice and guidance about sanctions (and complaints).

12. I **strongly** recommend that Parliament continues to make it clear that the pastoral support mechanisms that are available to staff, are available to MSPs, generally in any guidance produced in response to other recommendations, at induction, and specifically at the point a complaint is received and notified to the MSP (recognising this will require liaison with the ESC).

13. I also recommend Parliament explores with MSPs opportunities for mentoring or peer support networks (with past and current) colleagues. The next session of Parliament will be challenging in many ways with a significant proportion of new MSPs who will likely need wider support, or someone they trust to speak to confidentially.

## *Confidentiality*

See report **on page 10**

14. I recommend that advice and awareness training be given to SPPAC members (particularly new members) about

- what action they should take should a matter they have previously commented on be referred to the SPPAC, and what considerations they might give to such communications. The aim would be to support members not provide a restrictive set of rules.
- potential communication pitfalls and how to avoid them. The aim would be to support SPPAC members. This does not have to be complex, long, or formal.

15. I **strongly** recommend that the confidentiality requirements for ongoing investigations is reviewed to ensure both consistency and to better support all involved.

## *Political context*

See report **on page 12**

16. I reinforce the recommendations above (at **Recommendations**) about having transparency of process and clarity of reasons for decisions, and training for new members of SPPAC. Transparency in these areas, will help demonstrate the objectivity of SPPAC decision-making.

17. I recommend that Parliament reflect on my comments above and form a view about whether the SPPAC membership should change or introduce external scrutiny in some way. For example, when sanctions are being considered in private there is an independent observer who does not take part in decision-making but can confirm process was followed, or whether there is more scope for the clerk to provide this assurance. To be clear, I am not recommending a course of action as it is part of a wider issue, but in the context of building trust, that Parliament actively consider it.

## Appendix 6

### Summary of observations

#### *Transparency and consistency*

See report **on page 3**

1. Perceptions of fairness and consistency were influenced by lack of transparency in the processes. The views expressed were along the lines of – how can sanctions be transparent if the process they are part of isn’t?
2. Not everyone appreciated that there may be different routes to being sanctioned by Parliament. Complaints that were referred via the ESC were relatively well understood, largely down to the information provided by the ESC about his investigations and processes. Other routes were less well understood, or even known about.
3. As **Appendix 1** illustrates there are inconsistencies in the approaches and the amount of information available about different elements of the complaints and standards landscape, and gaps. Parliament may wish to reflect on this; whether collectively the complaints and standards landscape meets the purpose originally intended, whether it delivers an efficient and effective complaints system, and whether there should be a wider landscape review with the aim of simplification and clarification.
4. Not all breaches (or potential breaches) of the Code (and other guidance) leading to resolution or sanction are the result of complaints. There is a specific area where complaints procedures could be clarified: self-reporting/ referral. Guidance appears to be silent on this. Parliament may wish to consider their position on this – whether this appropriate, and what the consequence or resulting actions may be.
5. At the same time as this review was ongoing, the Scottish Parliament (Recall and Removal of Members) Bill<sup>30</sup> was being considered by Parliament (now at stage 2). While the bill did not inform this review; the review findings and recommendations may be relevant to its consideration. It should be stressed; this is not in relation as to whether it is enacted - that is a matter for Parliament - but to provide context to the debate.
6. The ESC publishes complaints statistics. No such information is published by the Parliamentary Corporate Body. I urge the Corporate Body to consider collating and publishing complaints data, such as number received directly by various parts of parliamentary services, how many were admissible, how many were upheld, not upheld or resolved in some other way, and how many actually resulted in sanctions. This could serve several purposes
  - It puts sanctions in context
  - It may inform improvements or changes to complaints or supporting policies
  - It would give an indication of Parliamentary resources expended on complaints.

<sup>30</sup> [Scottish Parliament \(Recall and Removal of Members\) Bill | Scottish Parliament Website](#)

*Political context*

See report **on page 12**

7. I have restricted findings to the sanctions process, in line with the TOR.
8. I have also observed that potential for actual or perceived politicisation of the wider complaints process exists. This can manifest itself in two broad ways:
  - Complaints can be made against individuals for political purposes
  - MSPs may refrain from making legitimate complaints because they do not want to be perceived as acting politically.
9. The motivation for complaining about potential breaches of the Code is irrelevant in so far as how it is investigated. Investigations of alleged breaches (and the decision to open investigations) are evidence-based.<sup>31</sup> However, the very fact a complaint is made can have an impact. It also creates a risk that time, effort and resource is put into finding alleged breaches about which to complain.
10. This is potentially disruptive, destructive and can result in avoidable expense to the Parliament. That there are unmade complaints, should be worrying, as it means that potentially, there is unacceptable conduct going undetected and unaddressed.

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<sup>31</sup> Motivation for complaining was discussed by the [UK] *Parliamentary Commissioner for Standards in his 2024—25 Annual Report* (pp12—14)

## Appendix 7

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### Reading list

[Interests of Members of the Scottish Parliament Act 2006](#)

National Records of Scotland; archived committee reports [National Records of Scotland \(NRS\)](#)

Northern Ireland Assembly; [Code of Conduct and Guide to the Rule effective from 12 April 2021](#)

- [The Code of Conduct and The Guide to the Rules relating to the Conduct of Members](#)

Northern Ireland Assembly; Commissioner for Standards, Assembly; [Make a complaint](#)

Northern Ireland Assembly; [Process for complaints against Assembly Members - Key elements](#)

- Process for complaints against Assembly Members - Key elements [Flowchart](#)

Northern Ireland Assembly; [Standing Orders of the Northern Ireland Assembly](#)

Christine Sylvester & Fabrizio De Francesco; Process for Recommending and Agreeing Sanctions on Elected Members: A Comparative Research Study, and supporting comparative table

[Scotland Act 1998](#)

Scotland, Ethical Standards Commissioner for Scotland;

- [How we investigate complaints about MSPs](#)
- [Investigations Manual](#)

Scotland, Standards Commission for Scotland; Hearing Rule and Guidance [Webpage](#), including

- Hearings process and guidance rules, 2025
- Policy on the Application of Sanctions, 2024
- Guidance note for Witnesses 2024

Scottish Parliament; [Code of Conduct for MSPs](#)

Scottish Parliament; [Guidance on the Code of Conduct for Members of the Scottish Parliament](#)

Scottish Parliament;

- Official Report of Parliament meeting of [29 May 2024](#)
- Motions [SM6-13365](#) and [SM6-13368](#)
- Scottish Parliament; Presiding Officer's [Guidance on Conduct in the Chamber](#)

Scottish Parliament; [Scottish Parliament \(Recall and Removal of Members\) Bill](#)

Scottish Parliament; [Standing orders](#)

[Scottish Parliamentary Standards Commissioner Act 2002](#)

Senedd; [Code of Conduct on the Standards of Conduct of Members of the Senedd](#)

Scottish Parliament; Standards, Procedures and Public Appointments Committee, Committee Effectiveness (web page), including - Strengthening Committees' Effectiveness, [Official Report](#)

Scottish Parliament; Standards, Procedures and Public Appointments Committee, Official report of meetings and reports of Complaints received [official reports of meetings](#)

Scottish Parliament; Standards, Procedures and Public Appointments Committee, [Stage 1 report on the Scottish Parliament \(Recall and Removal of Members Bill\)](#) (05 November 2025)

Senedd; Complaints against members,

- [Procedure for Dealing with Complaints against Members of the Senedd](#), 2022
- [Guidance to the Procedure for Dealing with Complaints against Members of the Senedd](#)
- [Procedure for dealing with complaints against Members of the Senedd – flow chart](#)
- Support for

Senedd; [The Review of the Code of Conduct for Members of the Senedd](#), 2021

Senedd; [The support available to you: Making a complaint or reporting an incident](#)

Senedd; [Standing orders of the Welsh Parliament](#) 2024

Senedd; [Standards Committee](#)

Senedd; Standards Commissioner for Wales, [Making a complaint](#) (contains link to complaints procedure)

UK Parliament; Parliamentary Commissioner for Standards [webpage](#), including

- House of Commons [Procedural Protocol](#) in respect of the Code of Conduct (pp16—18 Sanctions and pp18—21 Appeals)

UK Parliament; Committee on Standards, [webpage](#), including

- [Annual Report 2024—25](#)
- [How the Committee operates](#)
- [Information about the complaint process on the conduct of an MP](#)
- [Information on lay members](#)
- [Sanctions and confidentiality in the House's standards system; revised proposals](#), 2021

UK Parliament; The House of Commons standards landscape: how MPs' standards and conduct are regulated, [Third Report of Session 2023—24](#)

UK Parliament; House of Lords Commissioners for Standards', [webpage](#), with links to related protocols and policies, including

- House of Lords [Conduct Committee](#)
- House of Lords [Parliamentary Commissioner for Standards](#)
- House of Lords [Making a complaint under the House of Lords Code of Conduct](#)

UK Parliament, [The Independent Complaints and Grievance Scheme](#), Brief Guide

