

Submission
No 5

**INQUIRY INTO UPDATING THE STANDING ORDERS TO
REQUIRE RESPECTFUL BEHAVIOUR IN THE CHAMBER,
PARTICULARLY AS THEY RELATE TO SEXISM AND
RACISM**

Organisation: The Scottish Parliament

Date Received: 2 May 2024

Dear Mr Blunt

Thank you for your email inviting me to make a submission to your Procedure Committee's inquiries. I hope things are good with you.

In the Scottish Parliament, Members' behaviour is regulated both by the Standing Orders and the Code of Conduct for Members of the Scottish Parliament. The Presiding Officer is responsible to the application of these policies and procedures to the Chamber.

Standing Orders rule 7.3 Order in the Chamber (see attached) requires the Members, at all times, to conduct themselves in a courteous and respectful manner, respecting the authority of the Presiding Officer. Rule 7.8 applies that rule to committee proceedings, with such modifications as are appropriate. That gives committee conveners the responsibility for order in their own committees.

In addition, The Code of Conduct for Members of the Scottish Parliament (see attached) makes provision about MSPs' general conduct, including in their conduct in the Chamber and committees. The Code of Conduct also requires members to comply with the Standing Orders and to abide by the policies adopted by the Scottish Parliamentary Corporate Body (the Corporate Body is responsible for ensuring that the Parliament is provided with the property, staff and services required for the Parliament's purposes).

The Guidance on the Code of Conduct (relevant section attached) provides additional information about the application of the code.

The Presiding Officer has the power to order a Member to leave the Chamber if they do not follow the rules on order, and to exclude that Member for a period not longer than the end of the next sitting day. Longer suspensions are possible, on the agreement by the Parliament to a motion of the Parliamentary Bureau (the Bureau is made up of representatives of any parties or groups with 5 or more Members, and is responsible, among other things, for proposing the parliamentary business programme).

These powers have been used sparingly since the Parliament was established in 1999.

I hope this information is helpful.

Kind Regards,

David McGill

Scottish Parliament Standing Orders - Rule 7.3 *Order in the Chamber*

1. Members shall at all times conduct themselves in a courteous and respectful manner and shall respect the authority of the Presiding Officer. In particular, members shall not speak or stand when the Presiding Officer is speaking.

2. Members shall at all times conduct themselves in an orderly manner and, in particular, shall not conduct themselves in a manner which would constitute a criminal offence or contempt of court.

3. Any member who is in breach of paragraph 2 may be ordered by the Presiding Officer to leave the chamber and may be excluded from the chamber—

(a) on the order of the Presiding Officer for such period as the Presiding Officer thinks fit but not beyond the end of the next sitting day; and

(b) for such further period as the Parliament may decide, on a motion of the Parliamentary Bureau.

4. A motion under paragraph 3(b) may not be amended. If the motion is debated only the following may speak, namely—

(a) the member concerned; and

(b) one member for the motion and one member against the motion.

ENDS

Code of Conduct for Members of the Scottish Parliament - Section 7: General Conduct of MSPs

1. Members must comply with the requirements of this Code of Conduct (the Code), with the Standing Orders, and with any other decision of the Parliament relating to the conduct of MSPs.

2. This section of the Code sets out some rules on general conduct which MSPs must follow.

SPCB policies

3. Members must abide by the policies that are adopted by the Scottish Parliamentary Corporate Body (SPCB). These policies are set out in the library of policies created by the SPCB on the Scottish Parliament website.

[Read the policies for Members](#)

Expenses

4. No improper use should be made of any payment or allowance made to members for public purposes. Members must abide by the Reimbursement of Members' Expenses Scheme agreed by the Parliament.

[Read about the Members Expenses Scheme](#)

Treatment of others

5. Members must treat the following individuals with courtesy and respect:

- other MSPs;
- parliamentary staff (including contractors providing services to the Parliament);
- their own staff and the staff of other MSPs.

6. Members must not behave in a manner towards those individuals in 7.5 or any individuals they are in contact with in their capacity as MSPs that involves bullying, harassment (including sexual harassment), or any other inappropriate behaviour.

Use of parliamentary staff

7. Staff of the Parliament are employed by the SPCB to provide an impartial service to the Parliament and its members. Members should not ask Parliamentary staff to act in any way which would conflict with or call into question their political impartiality, or which could give rise to criticisms that people paid from public funds are being used for party political purposes.

8. Members should respect the confidentiality of advice, whether written or oral, received from clerks or other Parliamentary staff and should avoid attributing advice or views to a named member of staff.

Conduct in the Chamber and committees

9. Members must conduct themselves in accordance with the following Standing Orders rules during meetings in the Chamber and, as appropriate, in committee meetings.

“Members shall at all times conduct themselves in a courteous and respectful manner and shall respect the authority of the Presiding Officer. In particular, members shall not speak or stand when the Presiding Officer is speaking.” (Rule 7.3.1)

“Members shall at all times conduct themselves in an orderly manner and, in particular, shall not conduct themselves in a manner which would constitute a criminal offence or contempt of court.” (Rule 7.3.2)

10. In committees and sub-committees, Standing Orders require that members respect the authority of the convener.

11. Members must abide by the guidance issued by the Presiding Officer on members’ conduct in the Chamber and, as appropriate, in committees. The current guidance issued by the Presiding Officer can be found in the [separate guidance on the Code](#).

Confidentiality rules

12. All drafts of committee reports, and committee reports which, although agreed by a committee and no longer in draft, have not yet been published, must be kept confidential, unless the committee decides otherwise. In addition, the following must be treated as confidential —

- briefing provided to members by Parliamentary staff for particular members’ information only;
- documents produced during a private session of a committee;
- evidence submitted to a committee sitting in private from a witness which it has been agreed can be treated as confidential;
- any other documents or information which the committee has agreed must be treated as confidential; and
- minutes of private discussions.

13. Unless the Parliament or the relevant committee has agreed otherwise, such documents must not be circulated, shown, or transmitted in any other way to members of the public (including those in Cross-Party Groups), media or to any member of any organisation outwith the Parliament, including the Scottish Government, nor to other MSPs who are not members of the committee or committees for whom the material was intended.

14. Members must not provide the media with any other briefings or views on the general contents ‘line’ of draft committee reports or other confidential material or information. Disclosures of this kind can also seriously undermine and devalue the work of committees.

15. Unless the Parliament or the relevant committee has agreed otherwise, members must not disclose any information to which a member has privileged access, for example, derived from a confidential document or details of discussions or votes taken in private session, either orally or in writing.

16. Where a committee member wishes to express dissent from a committee report, the member should only make this public once the committee report has been published in order to avoid disclosing the conclusions of a draft report.

Members' responsibilities

17. Members' staff carry out their duties as employees both within and outwith the Parliamentary complex and have dealings with those individuals mentioned in paragraph 7.5.

18. Consistent with their duties as employers, members must take all reasonable steps to ensure that their staff are fully aware of, understand and abide by the policies, rules, requirements and behavioural standards that apply to the conduct of staff when carrying out their duties both within and outwith the Parliamentary complex and in dealing with those individuals mentioned in paragraph 7.5.

19. If a member becomes aware that a member of their staff has not abided by any policies, rules, requirements or behavioural standards, that member must take appropriate action in relation to their member of staff.

20. On occasion, MSPs' staff will handle confidential information. MSPs must ensure that their staff or any other persons accessing or handling confidential documents or information listed in paragraphs 12 – 15 on their behalf comply with the confidentiality rules. MSPs will be held responsible for any breach by these parties.

ENDS

Code of Conduct for Members of the Scottish Parliament - Section 7: Guidance on MSPs' General Conduct

1. Members of the Scottish Parliament (MSPs) are accountable to the Scottish electorate who will expect them to carry out their Parliamentary duties in an appropriate manner consistent with the standing of the Parliament and not to engage in any activity as a member that would bring the Parliament into disrepute.

Treatment of others

2. Members should have reference to the definitions of unacceptable behaviours set out below in relation to sections 7.5 and 7.6 of the Code of Conduct. In addition, Members must abide by relevant SPCB policies on bullying, harassment, sexual

harassment and other inappropriate behaviour; and have reference to the examples of harassment and inappropriate behaviour included in these policies. The unacceptable behaviours set out below can result from an abuse or misuse of power derived from status or position, physical strength or force of personality. These unacceptable behaviours can occur in a variety of contexts, including face-to-face contact, by phone, email, messaging and on social media platforms.

Bullying and/or Harassment (the terms are often used interchangeably) occurs when an individual engages in offensive, intimidating, malicious or insulting behaviour which can make someone feel uncomfortable, vulnerable, upset, undermined, humiliated, denigrated or threatened. Bullying and/or harassment can be between two individuals or it may involve groups of people. It might be obvious or it might be insidious. It may be persistent or an isolated incident.

Protected Characteristic Harassment occurs when an individual engages in unwanted behaviour related to a relevant protected characteristic which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It can be an isolated incident or persistent behaviour and is essentially about the effect on the recipient, not about what was intended. Relevant protected characteristics under the Equality Act 2010 are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

Sexual Harassment occurs when an individual engages in unwanted behaviour of a sexual nature which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It can be an isolated incident or persistent behaviour and is essentially about the effect on the recipient, not about what was intended.

3. The Scottish Parliamentary Standards (Sexual Harassment and Complaints Process) Act 2021 extended the definition of "relevant provision" in the Scottish Parliamentary Standards Commissioner Act 2002 to allow complaints about alleged historic sexual harassment by an MSP (or former MSP) towards their staff to be made to the Commissioner (in addition to staff groups already covered by the Code). It also removed a default time limit for making complaints to the Commissioner and removed any requirement for the complainer's signature.

Use of Social Media

Conduct in the Chamber and in Committee

4. Conduct in the Chamber is a matter for the Presiding Officer and conduct in committee proceedings is a matter for the relevant convener. Members should ensure they are up to date with the view of the Presiding Officer, and the convener of any committee they attend, before using electronic devices in any way during parliamentary proceedings. The Presiding Officer has issued guidance (below) which addresses the use of digital devices.

Treatment of others

5. The Code requires that members must treat other MSPs, parliamentary staff (including contractors providing services to the Parliament), their own staff and the staff of other MSPs with courtesy and respect.

6. In addition to treating the groups mentioned above (in Section 7, paragraph 5) with courtesy and respect, the Code also states that MSPs must not behave in a manner towards those individuals or any individuals they are in contact with in their capacity as MSPs that involves bullying, harassment (including sexual harassment), or any other inappropriate behaviour.

Confidentiality requirements in relation to social media

7. Social media allows MSPs to provide information about their parliamentary work. This could include information about discussions at committee meetings. In this regard, members should note Section 7 of the Code which makes clear that members should not “disclose...details of discussions or votes taken in private session”.

8. Further guidance on the use of social media in relation to liaison with constituents is available at Section 8.

Confidentiality rules

9. Certain information may be agreed as ‘confidential’ by committees or sub-committees. This is not through any desire to withhold information from the public. Rather, there are a number of difficulties which could arise through the unauthorised disclosure of confidential material—

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- public discussion of draft reports might give preliminary views a status they do not warrant and lead to recommendations or findings not adopted by the committee being prematurely attributed to it;
- early release of information about a committee report could also result in unfair party political advantage;
- it may be difficult for members to freely deliberate on the content of a draft report;
- it may be difficult to get witnesses to give evidence in confidence if members are shown to be incapable of treating their proceedings in confidence;
- it could lead to a loss of mutual trust between members and a breakdown of confidence in the operation of the committee.

10. Published committee papers and reports are available on the Parliament website. The relevant clerk should be contacted about the availability of other documents.

Guidance issued by the Presiding Officer on conduct

11. The Parliament’s Standing Orders state that Members shall at all times conduct themselves in a courteous and respectful manner and shall respect the authority of the Presiding Officer. In addition, Members shall conduct themselves in

an orderly manner and, in particular, shall not conduct themselves in a way which would constitute a criminal offence or contempt of court.

12. As a central principle underpinning this revised code of conduct, the Presiding Officers expect Members to adhere to the expectations outlined above both during proceedings held in the Chamber and committees as well as in their role as an elected representative to the Scottish Parliament.

13. It is ultimately a matter for the Presiding Officer to rule on issues of Members' conduct in the chamber. However, the following has been issued previously by way of specific guidance—

Conduct in the Chamber

14. To maintain courtesy and respect, members should not behave in a way which interferes with the proper conduct of business in the Chamber. This includes—

- *General courtesy and noise levels* – Members must conduct themselves in a courteous and respectful manner. Please pay attention to the impact of your entry and exit from the Chamber, particularly at Decision Time and Time for Reflection, and to noise levels more generally. During debates and questions, the Presiding Officers will give a certain amount of latitude in the interests of encouraging debate and avoiding excessive formality. However, that does not mean that the Presiding Officers condone behaviour that prevents other Members or the visiting public from following a debate. Do not cross the well of the Chamber. Please do not turn you back on the Chair as this has an impact on the sightlines of the Presiding Officers.
- *Use of language and behaviour* – *Members shall at all times ensure that their choice* of language in the Chamber is appropriate and meets the high standards expected by the general public. It is for the Presiding Officers to make judgements on these matters and all Members must respect the decisions of the Chair. The Parliament's Standing Orders provide for sanctions in relation to these matters. Members should refer to other members by their full name, refrain from the use of 'nicknames' and speak through the Chair, i.e. do not refer to other Members in the second person, e.g. "you".
- *Questions* – when your name is selected for a question, please make every effort to submit the question to the Chamber Desk in advance of the relevant deadline. If you are unable to do so, please email the Presiding Officers and Chamber Desk providing an explanation. Please also make sure that you present yourself on time to participate fully in the questioning of Ministers. A failure to adhere to these points is not only a discourtesy to the Parliament but it also means that a fellow member may miss out on the opportunity to ask a question.
- *Attendance in the Chamber* – as a courtesy to your fellow members, if you wish to participate in a debate, you should attend the whole debate but, as a minimum, members should be present during the opening and closing speeches and should remain in the Chamber to hear the two speeches following their contribution. It is particularly important that closing speakers are able to reflect upon all of the contributions made during a debate.

- *Use of digital devices* – Members may use digital devices in the Chamber for the purpose of engaging in and commenting on parliamentary business (including through social media). When doing so, Members must bear in mind their responsibility under the Code of Conduct to conduct themselves at all times with courtesy and respect. As communications through social media are not part of the parliamentary proceedings, the Presiding Officers should not be expected to rule on anything said on social media during meetings of the Parliament. Digital devices should not be used to take photographs, to record proceedings or to make telephone calls and all devices should be switched to silent mode.
- *Use of printed material* – Members should not read newspapers or magazines, except where members wish to quote from articles in debate.

Conduct in committee meetings

15. The above guidance relating to conduct in the Chamber is applicable in formal and informal meetings of the parliamentary committees at the discretion of the convener of the committee.