

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

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Introduction

1. The House of Commons regulates Members' behaviour in the course of formal proceedings differently from the way it regulates behaviour outside the Chamber and committees. Members' behaviour in the course of proceedings is a matter for the Chair and for the House; conduct outside the Chamber is a matter for the Parliamentary Commissioner for Standards and the Independent Expert Panel (see below).¹
2. The Standing Orders do not themselves lay down standards of behaviour, though Standing Order Nos. 42 to 46 give the Speaker the power to take action in the case of disorderly language or conduct. The Speaker may first issue an informal warning, inviting the Member to withdraw the offending word or phrase. If the Member declines to do so, then the Speaker may order them to withdraw for the remainder of the day's sitting under Standing Order No. 43. If the Member refuses to withdraw, then the Speaker may proceed to "name" them, and invite a Member (usually the Government Whip on duty) to move a Motion, "That such Member be suspended from the service of the House". This results in a suspension of five sitting days with loss of salary.² A Member who refuses to leave after being named would be suspended for the remainder of the Session of Parliament. A Member who is suspended in this way must leave the Parliamentary Estate.³ In the case of persistent, grave disorder, the Speaker may adjourn or suspend the House.⁴
3. Standards of expected behaviour for Members are a matter of practice and precedent, set out in Erskine May (in particular Chapters 5 and 21), in the Speaker's guidance on Rules of Behaviour and Courtesies in the House of Commons,⁵ in various Resolutions

¹ The Commissioner may consider a Member's conduct in proceedings in connection with a complaint of paid advocacy, or failure to declare an interest, since the connection between the Member's activity in the proceeding and the pecuniary interest is an element of the offence.

² [Standing Orders](#) Nos. 44(2) and 45A. If a Member is suspended for a second time under the Standing Order it would be for 20 days, and after a third suspension it would be indefinite, until the House decides to end the suspension.

³ [Standing Order](#) No. 45.

⁴ [Standing Order](#) No. 46.

⁵ [Rules of Behaviour and Courtesies in the House of Commons](#) (November 2023)

relating to the ICGS (see below) and the Code of Conduct and Guide to the Rules for MPs (though the latter deals primarily with Members' financial interests).

4. There are two key mechanisms for considering complaints about conduct in the widest sense: the Code of Conduct for MPs and the Independent Complaints and Grievance scheme.
5. The House's Independent Complaints and Grievance Scheme is most relevant for the inquiry in hand and is discussed more fully below. For context, it is helpful to know that the House's Code of Conduct is overseen by the Committee on Standards,⁶ which contains an equal number of MPs and lay members. Anyone can complain about breaches of the Code to the Parliamentary Commissioner for Standards, who will decide whether the complaint is of a sort which falls within the Code and should be investigated. If a breach is found, the Commissioner has a range of sanctions which can be agreed with the Member concerned, but if a serious penalty is contemplated or if the MP does not agree with the Commissioner the matter is referred to the Committee. If the Committee considers the MP in question should be subject to a penalty which can only be imposed by the House, the House considers a Motion to implement the sanction, usually within five sitting days.

The Independent Complaints and Grievance Scheme

6. In 2018, the House of Commons endorsed the new Independent Complaints and Grievance Scheme (ICGS). The Scheme consists of a Behaviour Code and a set of policies relating to complaints of bullying and harassment, and sexual harassment.⁷ The Scheme, and the Behaviour Code, apply to the entire Parliamentary community, including Members, staff of the House, Members' staff, contractors, and visitors to the Parliamentary Estate.⁸

⁶ See the [Committee on Standards web pages](#). The MPs on the Committee on Standards also form the Privileges Committee. The two Committees were at one time a single Committee on Standards and Privileges.

⁷ The policies are [Bullying and Harassment Policy](#), the [Bullying and Harassment Procedure](#), the [Sexual Misconduct Policy](#) and the [Sexual Misconduct Procedure](#).

⁸ [Behaviour Code](#), House of Commons

7. At the same time, the House incorporated into the Code of Conduct for MPs a new requirement that,

“Members are ... expected to observe the principles set out in the Parliamentary Behaviour Code of respect, professionalism, understanding others’ perspectives, courtesy, and acceptance of responsibility”,⁹

and a new Rule that,

“Members must treat their staff and all those visiting or working for or with Parliament with dignity, courtesy and respect”.¹⁰

8. Changes were made to the Standing Order establishing the Parliamentary Commissioner for Standards, extending their role to include overseeing investigations and make findings in cases against Members under the Independent Complaints and Grievance Scheme; referring such cases to the Independent Expert Panel (IEP) where a sanction beyond their powers is contemplated; and assisting the Panel and its sub-panels in its work.¹¹

9. The IEP’s functions are set out in Standing Order No. 150A and are:

(a) to determine the appropriate sanction in Independent Complaints and Grievance Scheme (ICGS) cases referred to it by the Parliamentary Commissioner for Standards;

(b) to hear appeals against the decisions of the Parliamentary Commissioner for Standards in respect of ICGS cases involving Members of this House;

(c) to hear appeals against a sanction imposed under paragraph (a);

(d) to report from time to time, through the Clerk of the House, on the operation of the ICGS as it relates to Members of this House;

⁹ [The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members](#) (HC1083, Session 2022–23)

¹⁰ *Ibid.*, p. 3.

¹¹ [Standing Order](#) No. 150(2)(f). The relevant part of the Standing Order now incorporates further changes made since July 2018.

(e) to hear appeals against the decisions of the Committee on Standards under Standing Order No. 149(1)(b) in relation to individual cases under the Code of Conduct;

(f) to consider any case of non-compliance by a Member of this House with a sanction imposed under sub-paragraph (a) or any other recommendation made in a report by a sub-panel in relation to an ICGS case; and to determine the appropriate sanction.

10. Where the IEP determines that the appropriate penalty is suspension the House has to decide whether to agree a motion to implement the sanction, without amendment or debate.
11. While the House has introduced robust policies to deal with misconduct by Members in most contexts, they do not extend to Members' conduct in the course of proceedings in Parliament. This falls to the Speaker or Chair to police. There are several reasons for this which have not necessarily been explicitly stated. First, the House guards carefully its exclusive cognisance, the right to regulate its own proceedings. While the investigatory processes set up by the House for both bullying and wider misconduct are considered within the boundary of Privilege, considerable responsibilities, including decision making, have been placed in the hands of functionally independent office holders. It would be inappropriate for them to control how the House or its committees controlled their core business. There may also be practicalities to consider: regulation should be in the moment and context-specific, which is best judged at the time; and the principle of freedom of speech in Parliament means that retrospective adjudication is inappropriate and could have a chilling effect.

Members' conduct in the Chamber

12. The Standing Orders do not set out any detailed rules about Members' behaviour in the Chamber. There is a specific prohibition against a Member persisting in "irrelevance, or tedious repetition" and a Resolution which prohibits Members from referring to matters *sub judice*.¹² The Standing Orders confer a range of powers on the occupant of the Chair to order a Member to resume their seat or, in the case of

¹² [Standing Order](#) No. 42; [Resolution relating to Matters sub judice](#) (15 November 2001).

serious disorder, to withdraw from the Chamber. The House has also resolved that “the Speaker should inform a Member who has failed to observe the courtesies of debate that he or she need not expect to get priority in being called to speak”.¹³

13. The Standing Orders themselves are largely silent on the question of what constitutes disorderly or unparliamentary language or conduct. There are, however, some well-established principles which derive from custom, practice and precedent. Erskine May says that,

“Good temper and moderation are the characteristics of parliamentary language. Parliamentary language is never more desirable than when a Member is canvassing the opinions and conduct of their opponents in debate. The Speaker will accordingly intervene in such cases and will also intervene in respect of other abusive and insulting language of a nature likely to create disorder. The Speaker has said in this connection that whether a word should be regarded as unparliamentary depends on the context in which it is used. Expressions will equally draw an intervention from the Chair when based on a quotation from elsewhere”.¹⁴

14. In addition to these general principles, the following specific rules have been consistently upheld by the Chair:

- treasonable or seditious language or a disrespectful use of His Majesty's name are not permitted;
- unless the discussion is based upon a substantive motion, drawn in proper terms, reflections must not be cast in debate upon the conduct of various people, including the Sovereign, the heir to the throne, or other members of the royal family; the Governor-General of an independent territory; judges of the superior courts of the United Kingdom; and Members of either House;
- a Member may not make an imputation of false or unavowed motives against another; misrepresent the language of another or accuse another of

¹³ On the recommendation of the former Select Committee on Modernisation of the House of Commons: Fourth Report of Session 1997–98, HC 600, para 49.

¹⁴ 25th Edition (2019), [paragraph 21.21](#).

such misrepresentation; or accuse another of uttering a deliberate falsehood.¹⁵

15. Subject to these principles and rules, it is for the Chair to decide whether a Member's speech or conduct in the Chamber is in order. This allows a degree of discretion in situations where context is important, and allows norms and standards of speech and conduct to evolve organically. The Chair will be sensitive to the need to balance freedom of speech with what are expected standards of behaviour.

Conduct in Committees

16. The Standing Orders give the Chairs of Committees of the whole House and of legislative committees similar powers to direct Members to resume their seats as the Speaker has. However, cases of serious disorder have to be dealt with by the House itself. The Chair would leave the Chair in Committee of the whole House, or the Chair of a legislative committee would report the matter to the House. It is extremely rare for such cases to arise.
17. Chairs of select committees have no such powers, and rely on the inherent authority of the Chair, and their power, if necessary, to adjourn or suspend proceedings.

I hope that this information is helpful. I am grateful to Tom Healey, Principal Clerk of the Table Office, for his help in preparing this note. Please let me know if I can be of any further assistance.

Tom Goldsmith, Clerk of the House of Commons

7 May 2024

¹⁵ *Ibid.*, [paragraph 21.24](#).