

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER

INFORMATION STRATEGY

Background

For the Scottish Parliament to enjoy the support and respect of the public, Members of the Parliament (MSPs) need to be seen to have probity and high standards in carrying out their Parliamentary duties. Parliament has created a Code of Conduct¹ for MSPs including arrangements for registering and declaring any interests which might conflict with their public duties. Parliament has also recognised² that there needs to be a way of investigating allegations that an MSP has breached the Code of Conduct, in a way that carries the confidence both of MSPs and the public.

The Scottish Parliamentary Standards Commissioner Act 2002 created the post of Standards Commissioner and set out the remit of the job. The Commissioner plays a part, as an independent investigator, in the first half of a four stage process for dealing with complaints that MSPs have breached the Code of Conduct. The Commissioner first decides about the admissibility of complaints under set rules, then, if appropriate, carries out an investigation with powers to call for witnesses and documents. He reports the results to Parliament by sending a report to the Standards Committee.

Section 3(5) of the Scottish Parliamentary Commissioner Act 2002 permits the Commissioner to “give advice to a member of the Parliament or a member of the public about the procedures for making a complaint to the Commissioner and the procedures following on the making of such a complaint”. Parliament decided to split the investigatory role from that of giving advice generally about standards and the Code of Conduct and whether a proposed course of action might breach the Code, so that the Commissioner could not be in the position of investigating conduct on which he had earlier advised. This is set out in Section 3(6). Giving such general advice is the responsibility of the Standards Committee Clerks.

The independent investigatory role is intended to give the public confidence that a robust and objective approach is being taken, which might not fully be the perception were Parliament to do the investigation by itself, e.g. by the Standards Committee, composed of MSPs. At the same time, MSPs need to feel that investigation will be balanced and fair and that they will be protected from insubstantial or inappropriate complaints. The Commissioner is accountable to both Parliament and the public. The legislation requires that the Commissioner should make an annual report to Parliament with information on numbers of complaints received, numbers of investigations carried out etc. This would be publicly available.

It follows from the above that the role cannot be fully effective unless both MSPs and members of the public they represent:

- know of the existence of the Commissioner
- know what he or she is there to do
- know what he or she can't do and who else may be relevant to approach

- know how to make a complaint and what the process is once a complaint is made

There is also a legal requirement under the Data Protection Act 1998 to inform people about who holds their personal data, the uses to which it is put and to whom it might be disclosed. Although much processing of data by the Commissioner might strictly be exempt from this requirement, there is no reason not to follow the “fair processing principle.” The Freedom of Information (Scotland) Act 2002 will also require public bodies to have a publication scheme to make information available to the public about their activities. The Standards Commissioner is not specifically listed in this legislation at present though it may be that the post will be added in future. At any rate it would be good practice to operate within the spirit of that requirement of the Freedom of Information Act. It is good practice also to inform complainers what they can do if dissatisfied with the Commissioner’s actions and decisions.

There is therefore a need for the Commissioner to make information of various sorts available to people in various appropriate ways.

It is important to appreciate the point of view of the member of the public who may have a grievance about an MSP. They may have an original complaint with another agency with which they have sought help from the MSP. Other agencies may be involved, e.g. Public Services Ombudsman or Legal Services Ombudsman. From this point of view, the complainer does not need a series of detailed leaflets about the various Ombudsmen and Commissioners, but rather a large scale map showing the various bodies, their respective roles and the links and boundaries between them. (This need has been recognised by the group of Ombudsmen and Commissioners in Scotland, the Dunedin Group, and a lead is being taken by Audit Scotland in producing the necessary document. The Scottish Parliamentary Standards Commissioner will contribute to this.)

Even within the Parliamentary system matters can be complex and opaque for a potential complainer e.g.

- complaints about breaches of the Code of Conduct, including the Members’ Interests Order and any replacement, go to the Standards Commissioner.
- complaints about misuse of the allowances system go to the Scottish Parliamentary Corporate Body
- complaints about the conduct of a Member in the Chamber go to the Presiding Officer.
- complaints about the conduct of a Member in committee go to the committee convener
- complaints about Ministerial actions breaching the Ministerial Code are dealt with by the First Minister’s Office
- complaints about Cross Party Groups go to the Standards Committee

It is frustrating for a complainer to have to be redirected to another destination or to be given wrong information which wastes time and effort. If people have a complaint about an MSP, they need information as early as possible about where to direct their complaint. This need is illustrated by the fact that, of the 16 complaints so far considered inadmissible, 7 (44%) failed on the “relevance” test.

If the Standards Commissioner is the correct destination, then they need further information about the Commissioner and the complaints process, including Data Protection Act “fair processing” information, and what to do if dissatisfied with the Commissioner.

Summary of principles

- **It is desirable to provide information in order to make people aware of the Standards Commissioner and able to use his service efficiently and effectively, and to increase public confidence in the system to regulate the conduct of MSPs**
- **Information should be provided as far as possible in a way that takes into account how things look from the stance of the potential complainer**
- **Given the multiplicity of bodies potentially involved, information needs to be provided with different levels of focus. This will involve cooperation amongst agencies**
- **The Commissioner will wish to inspire public confidence by being perceived as being helpful and as open as possible, consistent with the need to maintain appropriate confidentiality**
- **A range of appropriate communication methods should be used, to reach as many appropriate people as possible**
- **Where individual requests are made for information held by the Commissioner, these requests should be responded to timeously.**

Methods

Levels of information

The discussion above suggests that there should be three levels of information provided.

1. A large scale “map” of various Ombudsmen, Commissioners etc. who may deal with complaints about public bodies and public and related functions. This would show where the Standards Commissioner fits into the overall provision.
2. Information about complaints about MSPs in particular, showing where the Commissioner fits in alongside other possible destinations for complaints about MSPs.
3. More detailed information about the Scottish Parliamentary Standards Commissioner and the process in which he or she plays a part.

Vehicles

1. Leaflets. These are convenient to send out to enquirers and also to have available in appropriate places, e.g. public libraries and Citizen’s Advice Bureaux.
2. Website information. This makes information easily and quickly available for those able to make use it. Not everyone has access to the internet, of course. The Commissioner should seek to have appropriate links on the websites of other agencies. He should also develop a website of his own. This would be

preferable to having a section (as opposed to a link) on the Parliament website as it would give a better perception of the independence of operation of the Standards Commissioner.

3. MSP and Parliament staff induction. Induction on standards issues is currently done by the Standards Committee clerks. This is appropriate, but the Commissioner could participate, demonstrating his presence to new MSPs and briefly outlining his role. There would also be a useful role in relation to staff in the Parliament Information Office etc.
4. Annual report to Parliament
5. Accepting invitations to talk to interested groups and organisations.
6. Last, but not least, the media, broadcast and print. This is clearly a potential way of informing larger audiences about the role, through newspaper interviews, taking part in radio and TV programmes etc. However this is a difficult and rather sensitive subject in relation to the Standards Commissioner and a media strategy will be developed and presented as a next step.

Information strategy action plan

1. Contribute to Audit Scotland-led production of “large-scale map”.
2. Produce information on complaints about MSPs with Scottish Public Services Ombudsman’s Office
3. Produce leaflet on role of Standards Commissioner.
4. Decide on print run and distribution of leaflets in discussion with Parliament information services and relevant others.
5. Ensure information provided on Parliament and other websites, and in future links to own website.
6. Develop Standards Commissioner website in 2004/5.
7. Develop material for website. This will be similar to 3 above, together with annual reports, strategies and links to other relevant sites.
8. Discuss induction proposal with Standards Committee Clerks and other Parliament officials
9. Accept relevant invitations from groups, organisations to give information about role.
10. Develop Publication Scheme in keeping with Freedom of Information (Scotland) Act 2002

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Scottish Parliamentary Standards Commissioner
26 February 2004

References

1. The Code of Conduct for Members of the Scottish Parliament (Edition 2: 01/05/03) is published on the Parliament website on the MSP page at <http://www.scottish.parliament.uk/msps/coc/coc.pdf>.
2. Standards Committee 4th Report 2000. *Models of Investigations of Complaints*. The Scottish Parliament