

# SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER

## MEDIA STRATEGY

### Principles

The principles of my overall information strategy apply (see [Scottish Parliamentary Standards Commissioner Information Strategy 2004](#).) As Commissioner, I should neither hide from the media and appear secretive and defensive, nor seek a high profile. It is the role which needs a profile, not the person occupying it. It is in the interests of public confidence in regulation of conduct of MSPs that I should be visible and that people should be aware of what I do. I should appear open and approachable as far as possible, but be ready to explain why it is not possible to comment on individual cases or on the relevant provisions. The content of a complaint must remain confidential during my investigative process – premature release of information could jeopardise effective enquiry into a complaint as well as the chances of a fair hearing for the Member concerned.

### Strategy

#### 1. Requests for interviews and appearances giving information relevant to the role

I will welcome these so long as they are within Sections 3(5) and (6) of the Scottish Parliamentary Standards Commissioner Act 2002 (the Act). I will clear in advance with the Presiding Officer any material for publication, broadcasts or public discussion which draws on official information or experience, or may conflict with my duties.

#### 2. Queries about receipt of a complaint

If asked whether a complaint has been received, I will explain that, under the rules laid down by Parliament, I can neither confirm nor deny the existence of a specific complaint (except where the complaint has been made public by the Standards Committee, in which case I may confirm it). I will be able if desired to offer a general description of my role in the complaints process.

It should be noted that I will be unable to confirm the withdrawal or dismissal of a complaint or to indicate when I have sent my report to Standards Committee or to the Procurator Fiscal.

#### 3. Issue of a press statement

I may infrequently wish to issue a press statement. It could occur, for example, if I felt it necessary to correct some inaccurate information in the media relating to me or my role. In this case it will issue from me directly rather than through the Parliament's Media Office in order to support public perception of my operational independence from the Parliament.

#### 4. Annual report

It is possible that my annual report could give rise to media interest, in which case it would be appropriate for me to issue a press statement and make myself available to answer questions on it. I will disclose no information about individual cases over and above that already made public by Parliament.

### Background – legislative and other issues

There is an inevitable tension between the need for me to publicise my role, in order to maximise effectiveness, and the need to maintain appropriate privacy and confidentiality in relation to individual complaints. This media strategy is intended to assist me by guiding action and anticipating, rather than reacting to, problems.

This must of course operate within the legislative requirements. The Scottish Parliamentary Standards Commissioner Act 2002 (the Act) says that “Each stage of an investigation into a complaint shall be conducted in private” [This refers to Stages 1 and 2 which are carried out by me. Later stages involving the Standards Committee and the Parliament are generally conducted in public, and the Standards Committee normally makes public my report on my investigation along with its own report to Parliament. The intention is to allow investigation to take place without the pressure and possible distortion of publicity, while allowing public scrutiny of the Parliamentary processes of recommending and deciding upon sanctions.]

Section 16 of the Act protects confidentiality by prohibiting me from disclosing any information contained in the complaint or obtained in the context of my investigation *except* for the purpose of enabling or assisting me to discharge my functions under the Act or any other legislation or Standing Orders, including making a report to Parliament, or the investigation or prosecution of an offence or suspected offence.

Section 3(5) permits me to give advice to a Member of the Scottish Parliament or a member of the public about the procedures for making a complaint to me and the procedures that follow making a complaint. However, Section 3(6)(a) goes on to say that I shall not “give advice to a Member of the Parliament or to a member of the public as to whether any conduct which has been, or is proposed to be, committed by a member of the Parliament (whether or not the member seeking such advice) would constitute a breach of a relevant provision; and Section 3(6)(b) says I must not “...express any view upon any of the relevant provisions except in the context of an investigation in any particular case or in a report upon the outcome of an investigation or in such other circumstance as may be specified in any direction given to the Commissioner by Parliament.”

While generally explaining the process in which I play a part, therefore, I have to be careful not to express a *view* on the Code of Conduct and the Members’ Interests Order. I cannot respond to general queries about the Code or give advice as to whether particular conduct might breach the Code: the Standards Committee clerks advise Members on the application of the Code, and they may be approached by others who wish information about the Code.

The issue of regulation of Standards of Conduct in the House of Commons was the subject of a report<sup>1</sup> in 2002 by the Committee on Standards in Public Life (the Wicks Committee). This devoted a helpful section to the topic of a media strategy (and the importance of having one).

Wicks noted that public perceptions of the Commissioner, as of standards in Parliament generally, depend considerably on what is said in the media. The Committee believed it was appropriate for the Commissioner to speak publicly about his or her office and role, to provide necessary information for potential complainers but also to increase public confidence by giving information about how the system works.

The Wicks report dealt with the difficult question of media interest in the Commissioner's investigations. The media may be informed about a complaint by the complainer, the Member, or people close to them. Some cases may excite a lot of interest. The Scottish Parliament Standards Committee has recently considered the same issue and has adopted a policy different from that which the Wicks Committee recommended for Westminster. Standards Committee issued a Direction<sup>2</sup> that I should neither confirm nor deny the existence of a complaint in response to queries. Confirmation can only be given (a) for the purpose of, or in connection with, the investigation of the complaint; (b) where the complaint has been made public by the Standards Committee; (c) in statistical data that does not disclose confidential information; or (d) in a report to the Parliament under the 2002 Act. This means that I cannot deny the existence of a complaint, e.g. where no complaint exists, where a complaint has been dismissed or where a complaint has been withdrawn.

This media strategy has been agreed with Standards Committee.

**Dr J A T Dyer**  
**Scottish Parliamentary Standards Commissioner**  
**6<sup>th</sup> April 2005**

1. Committee on Standards in Public Life (2002). *Standards of Conduct in the House of Commons*. Eighth Report, Cm 5663
2. Direction from Standards Committee, 22 December 2004