



## **SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER**

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From the Commissioner, Dr J A T Dyer OBE

### **PRESS NOTICE**

#### **COMPLAINT AGAINST WENDY ALEXANDER MSP BY IAIN FRASER**

#### **THE ROLE OF THE SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER**

I would like to clarify some aspects of my role as Parliamentary Standards Commissioner, as some recent comments reported in the media in relation to the above complaint and following Ms Alexander's resignation have shown that it may not be fully understood.

*The Commissioner, Jim Dyer, said:*

*"When I receive a complaint about a Member I have no choice but to address it. Also, I operate only on receipt of complaints; I do not initiate investigations.*

*It makes no difference to me what the motivation for the complaint is or who the complaint comes from – a complaint is a complaint, to be judged on the evidence. Likewise I will deal with it impartially no matter which Member it is and which party they belong to.*

*I receive what may appear to be politically motivated complaints from supporters of various parties.*

*If it appears that there is a breach of the rules which is potentially a criminal offence, like failure to register financial interests, I have to suspend investigation and report to the Procurator Fiscal. When the PF or court process, if there is one, has finished, I am obliged to resume investigation under a Direction given to me by MSPs – I have no choice in this.*

*When Parliament set up my role, it considered that the public would have more confidence in the process of investigation of conduct complaints if the Commissioner was independent of the Parliament and the Standards Committee. It therefore follows that I have independent legal advice. If I simply adopted the advice made available to the clerks I would not be independent in my investigation. That of course makes it possible that from*

*time to time the legal advice I get will be different from that given by the Parliament lawyers to the clerks. As a holder of public office, I must act in accordance with the law. In this case, which raised issues of interpretation in relation to two different laws, I made sure that I had advice from my own legal advisers, and, on their suggestion, from senior counsel with expertise in public law, and I was persuaded by, and accepted, that advice.*

*The clerks are not within my jurisdiction – I operate entirely separately from them. Parliament in setting up my role chose to split the responsibility for advising members on conduct (a role of the clerks) from that of investigating complaints about conduct (the role of the independent Commissioner). This prevents the Commissioner from having to investigate a matter on which he may have previously given advice, and so strengthens the impartiality of the investigation process.*

*The Code of Conduct agreed by Members in 2007 says that while Members can approach the clerks for advice, the responsibility for registration lies with the Member, who may also consult a private legal adviser.*

*Matters such as mitigating factors, and the imposition of sanctions should a breach be found, are not within my remit; they are considered by the Standards Committee and ultimately the Parliament. I simply investigate whether the conduct complained of took place and, if so, whether it involved a breach of the rules.*

*The investigation process necessarily takes some time as it follows a set process laid down by MSPs, which includes measures built into it to safeguard the interests of Members. The admissibility of the complaint is assessed before it can go on to full investigation, if admissible. Following an interview, the Member has to have a chance of correcting a summary of the transcript and he or she also has to see a copy of the draft report before it goes to the Committee so that representations on it can be made. In this case there was also a period when investigation had to be suspended because I was obliged to refer the matter at a particular stage to the Procurator Fiscal.”*

**Note:**

The Commissioner’s report on this investigation will most likely be made available along with the report of the Standards, Procedures and Public Appointments Committee when that is published. He has asked the Committee to make his detailed report publicly available as soon as possible.

The role of the Scottish Parliamentary Standards Commissioner, currently Dr Jim Dyer, is laid out in the Scottish Parliamentary Standards Commissioner Act 2002. Further guidance is available on the Commissioner’s website at [www.spsc.co.uk](http://www.spsc.co.uk)

The Commissioner has a Memorandum of Agreement with the Crown Office and Procurator Fiscal Service which explains how the Commissioner must act when faced with a likely breach of the provisions for registration of interests

and some other matters which, if proved, would constitute an offence. This is available to view on the Commissioner's website.

Section 2.10.1 of the Code of Conduct provides as follows:

*“Responsibility for ensuring compliance with the requirements of the Act for registration of interests lies with the individual Member. If a Member is uncertain about how the rules apply, the Standards clerks may be asked for advice. A Member may also choose to consult a personal legal adviser and, on detailed financial and commercial matters, a Member may wish to seek advice from other relevant professionals.”*

29 June 2008