



The Scottish Parliament  
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12 February 2019

Dear Requester

**REQUEST FOR INFORMATION: 2019-621600**

We acknowledge your request for information seeking “a list of all complaints made to the office of the Presiding Officer concerning the conduct of MSPs under the whip of the Conservative party in Scotland and the Labour party in Scotland (and if the information is available, what steps were taken to resolve the issue) – please note, issues could also include allegations of sexual harassment.”

Your request was received on 24 January 2019 and has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

Having considered your request, we require further information from you to identify the information you are seeking. Set out below is some background information explaining the nature of complaints that the Presiding Officer is and is not responsible for, in order to assist you in clarifying your request.

You might find it helpful if I explain that the Presiding Officer is only responsible for considering complaints made under the Code of Conduct for MSPs Section 8 (Engagement and Liaison with constituents) and some under Section 9 (Enforcement of Rules – Excluded Complaints, where these are investigated by the Presiding Officer).

Section 8 of the Code relates to the way in which MSPs are expected to deal with individual constituents' cases (for example, paragraph 8.1 provides that each MSP is expected to take on a constituent's case when approached, unless there are legitimate reasons for declining to do so); and how MSPs represent the basis on which they were elected or the area they serve (for example, describing

themselves as a constituency or regional MSP). The focus of the Presiding Officer's investigations in these cases is accordingly confined to whether or not an MSP has dealt with a constituent's case in accordance with section 8 or whether they have misrepresented the basis on which they were elected or the area they serve. Section 8 of the Code can be found at:

<http://www.parliament.scot/msps/42781.aspx>

Accordingly, the Presiding Officer has no locus to investigate any other complaints about conduct, including allegations of sexual harassment which you specifically refer to in your request.

Complaints in relation to the conduct of MSPs under the Code of Conduct for MSPs are initially investigated by the Commissioner for Ethical Standards in Public Life. Exceptions to this procedure are 'Excluded Complaints', which are referred to above and are set out in Section 9 of the Code. Broadly speaking, the role of the Commissioner is to independently establish the facts of a complaint. The Parliament's Standards, Procedures and Public Appointments Committee then considers whether it agrees with the Commissioner's findings and puts forward any proposed sanctions for consideration by the Parliament.

The Committee has received one complaint against an MSP regarding sexual harassment, which was investigated by the Commissioner who reported to the Committee on its findings in fact and conclusion. The Committee then proposed sanctions which were voted upon, and agreed, by the Parliament. This complaint was not against a member from either of the Conservative or Labour parties. The Committee's report on this complaint, which includes a link to the Commissioner's findings, can be found at:

<https://digitalpublications.parliament.scot/Committees/Report/SPPA/2018/6/21/Complaint-against-Mark-McDonald-MSP#Introduction>

The Committee also investigates a range of other types of complaints against MSPs, for example, relating to the registration of Interests and confidentiality rules. The Committee's reports on complaints against MSPs to date this session can be found at:

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/108085.aspx>

I hope the information we have provided in relation to the types of complaints that can be made against MSPs and who is responsible for investigating them is helpful to you in clarifying exactly what information you seek. Please confirm if it is information in relation to complaints under Section 8 of the Code which you require. Alternatively, if your request relates to the work of the Commissioner for Ethical Standards in Public Life, please re-direct your request to [inforequests@ethicalstandards.org.uk](mailto:inforequests@ethicalstandards.org.uk). Further information on how to make an FOI request to the Commissioner is available here:

<http://www.ethicalstandards.org.uk/publications/publication/719/how-to-make-a-freedom-of-information-request>

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<http://www.parliament.scot/help/13591.aspx>

We would welcome feedback or comment on how we handled your request. Please feel free to contact the Head of Information Governance at The Scottish Parliament, Edinburgh, EH99 1SP or by e-mail at [foi.officer@parliament.scot](mailto:foi.officer@parliament.scot)

Please find below Annex A, which explains how we handle FOI requests and reviews.

Yours sincerely,

Claire Turnbull  
Head of Information Governance

## **Annex A**

### **REQUESTS MADE UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002**

#### **How we handle FOI requests**

Information on how we handle FOI requests is available on the Parliament's website at:

<http://www.parliament.scot/help/43163.aspx>

Alternatively please contact the Public Information & Publications Team to request a copy.

<http://www.parliament.scot/visitandlearn/25072.aspx>

#### **Review**

If you are dissatisfied with the way in which we have dealt with your request for information you can ask us to review our decision and actions. You must do this in writing (or other permanent form) within 40 working days of the date of this letter stating the reasons for your dissatisfaction and we will respond within 20 working days of receipt. A request for a review should be made to the Head of Information Governance.

Post: Head of Information Governance  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Telephone: 0131 348 6913 (Calls using the Text Relay service are welcome.)

E-mail: [foi.officer@parliament.scot](mailto:foi.officer@parliament.scot)

#### **Application to the Scottish Information Commissioner**

If on the outcome of any review you are still dissatisfied or if we are unable to resolve any other complaint then you can contact the Scottish Information Commissioner:

Post: The Office of the Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

Email: [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal)

Telephone: 01334 464610

Fax: 01334 464611

Website: [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

A decision by the Scottish Information Commissioner may be appealed on a point of law to the Court of Session.

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### **Feedback or comment**

We would welcome feedback or comment on how we handled your request. Please contact the Head of Information Governance.

### **Complaints**

If you are dissatisfied with the way in which we dealt with your enquiry, then you may wish to raise the matter with the Head of Information Governance.

### **How to contact us**

Post: The Scottish Parliament  
Edinburgh  
EH99 1SP

Telephone: 0131 348 5000  
0800 092 7500 (Public Enquiries)  
0131 348 5395 (Gàidhlig)

We also welcome calls using the Text Relay service.

E-mail: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)