

Contents

	Summary	2
	Mr Craig Mackinlay MP: Resolution letter	3
	Letter from the Commissioner to Mr Sean Farrell, 2 November 2017	3
5	Written evidence	5
	1. Letter from Mr Sean Farrell to the Commissioner, 24 July 2017	5
	2. Letter from the Commissioner to Mr Craig Mackinlay, 15 August 2017	6
	3. Letter from Mr Craig Mackinlay MP to the Commissioner, 5 September 2017	9
10	4. Letter from the Commissioner to the Director of Accommodation and Logistics Services, 7 September 2017	11
	5. Letter from the Commissioner to Mr Craig Mackinlay MP, 7 September 2017	12
	6. Letter from the Director of Accommodation and Logistics Services to the Commissioner, 19 September 2017	13
15	7. Letter from the Commissioner's Office to Mr Craig Mackinlay MP, 21 September 2017	13
	8. Letter from Mr Craig Mackinlay MP to the Commissioner, 5 October 2017	14

Summary

5 The allegation I investigated was that the Member had acted in breach of paragraph 15 of the Code of Conduct for Members through his use of House-provided stationery to send a mailshot to individuals newly included on the electoral roll in his constituency.

I did not uphold the allegation that the letter constituted a general update on a range of issues, nor did I find that it conferred any undue advantage.

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15

Mr Craig Mackinlay MP: Resolution letter

Letter from the Commissioner to Mr Sean Farrell, 2 November 2017

5 I wrote to you on 15 August to say that I had begun an inquiry into your allegation of a breach of paragraph 15 of the House of Commons' Code of Conduct by Mr Craig Mackinlay MP.

10 Paragraph 15 of the Code prohibits the use of publicly funded resources to confer any "*undue personal or financial benefit on [the MP] or anyone else, or [to] confer undue advantage on a political organisation*". Underpinning this over-arching rule there are more specific rules on the use of House-provided stationery. I set these out in my letter to Mr Mackinlay of 15 August. However, as I am sure you will appreciate, the boundary between an MP's parliamentary activities and party political activity is neither neatly nor easily defined.

15 I have now concluded my inquiry and, having considered very carefully Mr Mackinlay's comments, as well as the advice I have received from the House authorities, I have not found a breach of the rules and **I do not, therefore, uphold the allegation.**

20 As you can see, the Director of Accommodation and Logistics Services has told me that if Mr Mackinlay had sought her advice (which he was not obliged to do), she would have advised him that the majority of the text of his letter was in line with the rules on the use of House-provided stationery. (She identified one phrase in the letter which she said she would have recommended omitting.) The Director said that she did not consider Mr Mackinlay's letter to break the rule prohibiting the use of House-provided stationery for general updates and newsletters.

25 I accept the Director's advice, bearing in mind the context in which Mr Mackinlay's letter was sent, i.e. to introduce himself and provide factual information about how and with whom a new constituent might raise issues of concern. I understand why she raised a concern about one particular phrase and I have considered that concern in the light of Mr Mackinlay's response.

30 Mr Mackinlay has explained why he considers the phrase highlighted by the Director to be purely factual. I do not think that a factual statement is necessarily devoid of party political content. However, in all the circumstances of this particular case, I do not think the words "*now possible post-Brexit*" change the overall tone and content of the letter to such an extent that it would confer undue advantage in breach of paragraph 15 of the Code of Conduct.

35 For completeness, there are two additional points which you raised in your letter of 24 July which did not form part of my inquiry, which I should address now.

The first concerns the use of pre-paid envelopes. The rules on the use of House-provided stationery do not prohibit an MP from using postage pre-paid envelopes when writing to constituents (or others) inviting a response from the recipient. As you will see paragraph 8 of the rules allows the use of House-provided stationery to distribute surveys; which is a clear example of soliciting a response. The rule against *5 sending* pre-paid envelopes to others to “*facilitate a reply*” concerns the sending out of House-provided pre-paid envelopes which the recipient might then use to send back a letter or survey to the MP. If an MP wishes to meet the postage costs of a respondent, (s)he would be expected to set up her/his own Freepost account for that purpose.
10

You asked whether inviting a constituent to visit a website and to sign up to a newsletter would be a breach of the rules *if* that newsletter were to contain party political content. It is possible that it would, but it would depend on the facts in the particular case. As the details elicited in this inquiry demonstrate, the overall tone and content of any particular letter has to be considered before reaching a decision
15 on whether the boundary between parliamentary and party political use has been overstepped, and I cannot therefore advise on a hypothetical scenario.

I am writing to Mr Mackinlay today to inform him of my decision. I enclose a copy of the written evidence (which will be posted on my website in the next few days).
20 I will briefly report on the outcome to the Committee on Standards in due course.

2 November 2017

Written evidence

1. Letter from Mr Sean Farrell to the Commissioner, 24 July 2017

5 I'm writing to ask you to investigate whether a letter sent by my MP, Craig Mackinlay, breaks the rules for the use of House of Commons stationery and prepaid envelopes.¹ I have attached the letter and envelope.

In the letter, Mr Mackinlay talks about his main aims for Ramsgate:

- Securing regeneration funding for a new town square and street improvements
- Making more of the Royal Harbour
- 10 • Finding a way to increase traffic through Ramsgate port
- Getting the law changed so that the council can ban live animal exports.

This appears to be a general update on a range of issues, which is not allowed under the rules.

15 The rules also say prepaid envelopes "should not be sent to others to solicit a reply". Does Mr Mackinlay's invitation to [the recipient] to get in touch and be signed up for his newsletter break this rule?

If Mr Mackinlay's newsletter includes party political material, is he breaking the rules (or their spirit) when by offering in his letter to sign [the recipient] up for it?

20 I note that when investigating [another Member] in 2015 you wanted to know how many letters he had sent. I've already come across another constituent who has received a similar letter from Mr Mackinlay.

I initially contacted your office as a journalist about this matter. It seems I need to make a formal request for an investigation to get an opinion on Mr Mackinlay's letter.

25 I'd be grateful if you would let me know once you have decided whether to investigate Mr Mackinlay's letter.

24 July 2017

¹ A House of Commons' cream coloured second class postage pre-paid envelope was enclosed

Enclosure: letter from Mr Mackinlay dated 17 July 2017

I note that you have recently appeared on the electoral roll. It may be that you have moved locally, decided to register for the general election, or are indeed new to the area.

- 5 As your local Member of Parliament I wanted to offer you my contact details as a point of contact to help you through difficulties that you may face locally or when dealing with national authorities.

10 Many local issues that are properly within the remit of the local authority may be best addressed by contacting your local Councillor; a full list of who represents you on Thanet District Council and at County Council level can be found by entering your postcode at www.writetothem.com.

15 My main short-to-medium term aims for Ramsgate are to ensure that the town receives its fair share of regeneration funding. This includes a new town-square in the harbour and improvements to Harbour Street as the gateway to the High Street, to combine with heritage-led regeneration. The Royal Harbour, the only "Royal" harbour in the country, is a unique asset that we need to do more with. Additionally, Ramsgate port remains under-used for commercial passenger and freight operations; I am working hard to find a long term solution that will create jobs and tourism.

20 I have been trying to get a change in the law to allow local authority operated ports the discretion to stop the use of their port for live animal exports for slaughter abroad. A measure that I hope you would support, as Ramsgate is the only port in the country used for this trade. You may be aware of the legal case against the council resulting in a £4 million compensation claim following the Council's closure
25 of the port to such trade following a truly dreadful event in September 2012. The Government has been listening, with the Secretary of State for the Environment, Food & Rural Affairs actively considering a change in the law, now possible post-Brexit.

30 Do feel free to get in touch on any issue of concern by sending me your details via my website at www.craigmackinlay.com, where I will also add you to my regular e-newsletter distribution list.

2. Letter from the Commissioner to Mr Craig Mackinlay, 15 August 2017

35 I would welcome your help with an allegation I have received from Mr Sean Farrell about your compliance with paragraph 15 of the House of Commons Code of Conduct for Members. I enclose a copy of Mr Farrell's letter and the enclosures he sent with it.

The scope of my inquiry

The scope of my inquiry will be, in essence, to establish whether you have used parliamentary resources to confer an undue advantage on a political organisation.

The relevant rules and guidance

Paragraph 15 of the Code of Conduct (copy of Code enclosed) says that:

5 *“Members are personally responsible and accountable for ensuring*
 that their use of any expenses, allowances, facilities and services
 provided from the public purse is in accordance with the rules laid
 down on these matters. Members shall ensure that their use of public
 10 *resources is always in support of their parliamentary duties. It should*
 not confer any undue personal or financial benefit on themselves or
 anyone else, or confer undue advantage on a political organisation.

The Rules for the use of stationery and postage-paid envelopes provided by the House of Commons, and for the use of the Crowned Portcullis say, at paragraphs 2 and 3:

15 *“2. The rules cannot be expected to cover every eventuality; Members*
 should therefore always behave with probity and integrity when using
 House-provided stationery and postage. Members should regard
 themselves as personally responsible and accountable for the use of
 House-provided stationery and postage. They must not exploit the
 20 *system for personal financial advantage, nor (by breaching the rules in*
 paragraph 3 below) to confer an undue advantage on a political
 organisation.

3. House-provided stationery and pre-paid envelopes are provided only
for the performance of a Member’s parliamentary function. In
particular, this excludes using stationery or postage:

- 25 • *In connection with work for or at the behest of a political party (including*
 fund-raising for a political party, advocating membership of a political
 party or supporting the return of any person to public office;
- *....*
- 30 • *For newsletters (including annual reports or general updates to*
 constituents of a range of issues;
- *....”*

Paragraph 8 of the rules on the use of House-provided stationery outline the permitted uses of such stationery.

“8. Examples of proper use of stationery and pre-paid envelopes include:

-
- *correspondence with constituents, including contact by Members about a specific issue with people who have not previously contacted them and questionnaires and surveys (but not newsletters, annual reports or general updates on a range of issues)...*”

Next steps

I would welcome your comments on the allegation that your letter amounts to a breach of the House’s rules and the Code of Conduct for Members. In particular it would be helpful to have the following information:

- how many similar letters have been distributed since May 2015;
- the basis on which you considered this mailshot to be part of your parliamentary activities;
- whether you consider these letters might reasonably be considered to amount to a newsletter or general update on a range of issues; and, if you do not, the reason(s) for that belief; and
- whether the “regular e-newsletter” to which you refer is distributed via your parliamentary email address; if it is not, it would be helpful to know the address used for distribution of the e-newsletter and the reason for using that email address rather than your parliamentary email.

I enclose a copy of the *Commissioner’s Information Note*,² which sets out the procedure I follow. I am writing to Mr Farrell to let him know that I have decided to begin an inquiry into this matter. I will shortly update my parliamentary web pages to show that I am conducting an inquiry into an allegation into an alleged breach of paragraph 15 of the Code of Conduct. My office will not comment further on any aspect of the inquiry to third parties. (They will, however, confirm that I have begun an inquiry if asked before this information is posted on my webpages and they will answer factual questions about the processes I follow and the standards system more generally.)

As you will be aware, my inquiries are conducted in private. This letter and any subsequent correspondence between us is protected by parliamentary privilege until such time as a final report is published. (Any such report will include all the

² <http://www.parliament.uk/documents/pcfs/New%20Website%20Documents/PCS-Information-Note.pdf>

relevant evidence, including our correspondence.) I would, therefore, ask that you respect that confidentiality. I have made a similar request of Mr Farrell, explaining that my work is conducted in private and is protected by parliamentary privilege.

5 As a matter of courtesy, I should say now that I may make enquiries of the relevant House authorities in due course. If I do so, I will share that correspondence with you. While I do not, at this stage, know whether it will be necessary to interview you about this matter, it would be open to you to be accompanied at any such interview. I am, of course, very happy to meet with you at any stage if you would find that helpful.

10 I would appreciate your help and co-operation, and welcome your comments on the allegation, together with any evidence you feel may assist my investigation, as soon as possible and no later than 8 September 2017.

15 August 2017

3. Letter from Mr Craig Mackinlay MP to the Commissioner, 5 September 2017

15 I thank you for your letter and enclosures of 15 August 2017. I telephoned your office immediately to acknowledge receipt. I am now replying to your substantive questions within the timetable you have suggested.

20 Whilst not entirely relevant, as the opportunity to raise a complaint is available to anyone, Mr Farrell is known to me as a freelance journalist on The Guardian, and an examination of his Twitter feed indicates precisely where his political leanings are, and at a reasonable estimation to be quite contrary to my mine. I am grateful for the opportunity to demonstrate to you why these allegations are baseless.

25 I am aware of the rules and guidance available to Members, notably the "Code of Conduct" and "Rules for the use of stationery..." and I say that the letter as sent to constituents falls entirely within the Code of Conduct at V., Rules of Conduct para 15 and similarly within the Rules for the use of stationery at paras 2, 3 and 8.

The letter in question (dated 17 July 2017)

30 The letter had one sole purpose, which was to inform constituents who had recently appeared on the electoral roll as to my contact details for assistance should they require it, now or in the future. Indeed, subsequent to my letter, I have received contact from constituents both thanking me for it and raising issues upon which assistance is required. This is precisely within the suggested example of the use of stationery and postage-paid envelopes within the Rules at para 8., bullet point 4 "correspondence with constituents, including contact by Members about a specific issue with people who have not previously contacted them...." I am enclosing
35 examples of the emails I received in response to my letter.³ There have been

³ Text of these emails not reproduced, as not relevant to my decision

numerous telephone calls in addition, details of which are difficult to provide as evidence, but merely that my staff have raised this with me that the letter has been a source of an enquiry.

5 Obviously Mr Farrell would prefer the letter to be considered to be something else, but I can only reiterate my primary intent of the letters sent. Just to clarify a further assertion within Mr Farrell's letter, there was no "reply-paid" envelope included with the communication. The letter went further in offering a reference point for assistance from the constituents' local Councillors, whether County or District. You will note the reference in paragraph 3 of my letter to the website
10 www.writetothem.com, a website that my office finds enormously helpful in locating the appropriate Councillor for any postcode given.

This inclusion negates any suggestion that there has been a breach of rule 15 of the Code of Conduct "...it should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation."
15 For instance, using my own postcode of [redacted] the www.writetothem.com website advises the user to the following Councillors - 2 UKIP, 2 Labour, 1 Conservative. Additionally, the timing of the letter, post General Election is evidence in itself that no political advantage was sought or intended.

My replies to your "Next steps"

20 **Number of letters since May 2015**

This "project", to write to new additions to the electoral roll has been an irregular one. The July 2017 letters were in response to an unusually high number of new registrants between May 2017 to July 2017. The General Election may have served as a prompt to many to register, so it would be difficult to assess whether these
25 constituents were really "new" or had simply decided to register late. The July 2017 post out was to approximately 2,500 "new" constituents.

Prior to that I had not regularly assessed the rolling register of new applicants, but had perhaps twice undertaken a similar exercise since May 2015, with a letter in similar terms. It would be impossible to assess those numbers, but would estimate
30 the numbers to be in the region of 1,500 in total.

The basis on which I consider this to be part of my Parliamentary activities

Encouraging access by constituents to their MP is, I believe, a fundamental principle of my role. Too often, constituents do not know where to turn, nor who to approach for help. This letter, as explained earlier fulfilled clearly the example of stationery
35 use, para 8 and is in my submission a clear fit with the example given within the rules. Indeed I close the letter with a further offer of help.

Reasonable consideration of being a "newsletter" or similar

My primary intent was for the letter to serve as a means by which constituents can contact me or their local Councillor. Paragraphs 4 and 5 of my letter are mere aside to constituents about issues that are likely to be of relevance to them as newcomers to the area. With it is an obvious invitation for the constituent to be part of the debate on issues that are highly likely to be relevant to them. I do not construe this as amounting to a "newsletter" or "general update". If that was the purpose of the letter, these would have been promoted as the primary paragraphs to it, which they are not. Whilst a letter was being sent with the primary purpose of informing the constituent as to who their elected representatives are, I felt it wholly reasonable to include reference to local issues which may be of interest to the reader. The inclusion of these paragraphs was to help encourage and foster a sense of community and inclusiveness.

The e-newsletter

The e-newsletter (sent perhaps monthly/bi-monthly) is sent from the parliamentary email account.⁴ The only means by which constituents can be included on the distribution list is via my website www.craigmackinlay.com or via a direct email request (has never happened). For a constituent to receive a future email requires a conscious act on their behalf. My website bears no political emblems, and is entirely, and necessarily non-political in that regard. The website is IPSA funded. The irregular e-newsletter when sent are similarly non-political, unbranded and bears no political emblems.

It would be helpful to receive your soonest guidance on this matter as it is essential to know unequivocally whether this type of written communication is acceptable and within the scope and spirit of the rules.

I am obviously available for interview or to answer any further questions you may have.

5 September 2017

4. Letter from the Commissioner to the Director of Accommodation and Logistics Services, 7 September 2017

I would like to ask for your advice on a complaint I have received about Mr Craig Mackinlay MP, and into which I have begun a formal inquiry. In essence, the complaint from Mr Farrell is that Mr Mackinlay misused House of Commons stationery and pre-paid envelopes for what appear to be party political purposes.

I enclose the relevant correspondence, together with the papers that led to the inquiry. Please would you let me have your advice on whether, under the guidance given to Members on the use of stationery and postage-paid envelopes provided by the House of Commons, you consider the letter sent by Mr Mackinlay on 17 July 2017

⁴ Example provided - not reproduced here

was an acceptable use of House provided stationery. As you can see, Mr Mackinlay has told me that the sole purpose of the mailshot was to inform constituents who had recently appeared on the electoral roll of his contact details should they need them.

5 You will note that Mr Mackinlay says that he did not include “reply paid” envelopes with this mailshot. I think he may have misunderstood the reference in Mr Farrell’s letter to a “prepaid envelope”; I understood that Mr Farrell was referring here to the postage pre-paid envelope in which Mr Mackinlay’s letter was dispatched to the constituent, rather than a suggestion that Mr Mackinlay had enclosed a reply-paid
10 envelope to facilitate a written response. (Mr Farrell himself appears to have misunderstood the prohibition in paragraph 4 of the stationery rules (penultimate bullet point)).

I would be grateful to have your views on whether the letter and envelope used by Mr Mackinlay on this occasion fall within the definitions of acceptable use of House-
15 provided resources. I appreciate that there is no published definition of where the boundary between parliamentary and political use lies and it would be helpful to have your observations on the factors you have taken into in reaching a view in this instance.

It would be very helpful to have your response to this letter by 20 September. Thank
20 you for your assistance.

7 September 2017

5. Letter from the Commissioner to Mr Craig Mackinlay MP, 7 September 2017

Thank you for your letter of 5 September. The information you have provided is helpful.

25 When I wrote to you on 15 August, I said that I might seek advice from the House authorities. I have today written to [redacted], Director of Accommodation and Logistics Services to seek her advice. A copy of that letter is enclosed for your information.

It might be helpful to say now that I think you may have misunderstood one part of
30 Mr Farrell’s letter of 24 July. I understand his reference to a “prepaid envelope” to mean the postage pre-paid envelope in which you sent out the letter of 17 July. In that context, Mr Farrell quoted a part of the penultimate point of paragraph 4 of the stationery rules which says (in full)

35 “Prepaid envelopes may only be used for correspondence sent by or on behalf of Members. They should not be sent to others to facilitate a reply. Members should set up an individual Freepost account with the Royal Mail for surveys and other such requirements.”

The focus of my inquiry is on whether it was appropriate for you to use House-provided stationery and postage to dispatch the letters in this particular mailshot.

I will share [the Director's] advice with you so that you may comment on it before I reach any decision on this matter.

5 *7 September 2017*

6. Letter from the Director of Accommodation and Logistics Services to the Commissioner, 19 September 2017

10 Thank you for your letter dated 7 September 2017 concerning a complaint you have received from Mr Farrell regarding Craig Mackinlay MP's use of stationery. I note that you have asked for my advice on whether the correspondence was acceptable within the current rules on the use of House of Commons provided stationery and have asked that I include the factors I have taken into account when reaching my view in response to you.

15 The complainant's concern appears to be that the correspondence falls into the category of a newsletter or general update which would put it in breach of the current rules on stationery. However the current rules do allow for Members to use stationery and envelopes to contact constituents and others proactively and I have the letter as correspondence from the Member alerting a new constituent to Mr Mackinlay's contact details and outlining his aims for regeneration of Ramsgate and its port. This would not, in my view, breach the rules on general updates and newsletters.

25 I do believe, however, that there is a distinction to be made between correspondences using House-provided stationery for the dissemination of factual information and that of a political or campaign nature. I have no record showing that Mr Mackinlay approached my office for advice on whether the letter was in line with the House of Commons Commission rules on the use of House-provided stationery. If I had been asked to provide advice, I would have informed the Member that although, in my view the majority of the text of the letter was in line with the current rules on stationery usage, my advice would have been to remove the final clause from paragraph five: "now possible post-Brexit".

30 I hope this response is helpful.

19 September 2017

7. Letter from the Commissioner's Office to Mr Craig Mackinlay MP, 21 September 2017

35 When the Commissioner wrote to you on 7 September, she said that she would share with you the advice from the Director of Accommodation and Logistics, [redacted],

so that you might comment on it before she (the Commissioner) reaches a decision on the matter under inquiry.

We received [the Director's] advice earlier this week. The Commissioner is out of the office until 2 October and, rather than delay matters unnecessarily, I thought it
5 might be helpful to forward a copy of [that] advice to you now.

It would be most helpful if you would respond to the Commissioner with any comments you wish to make on that advice by 10 October 2017, or earlier if that is possible. If that timeframe is difficult for you, please let us know ahead of the deadline so that we can agree an alternative.

10 *21 September 2017*

8. Letter from Mr Craig Mackinlay MP to the Commissioner, 5 October 2017

Thank you for your letter of 21 September (sent by [one of your staff]) in your absence enclosing a letter from the Director of Accommodation and Logistics Services, [name redacted].

15 I am pleased [the Director] agrees with me that my letter to constituents, whose primary purpose was to proactively engage with constituents newly on the electoral roll, is acceptable and within the current rules on House of Commons' provided stationery. I would, however, like to query one point if I may?

20 [The Director] rightly points out that there is a distinction to be made between correspondence using House provided stationery for the dissemination of factual information and that of a political or campaign nature. I am hugely mindful and alert to the necessary distinction. She goes on to advise that, in her view, the phrase "now possible post-Brexit" at the end of the 5th paragraph might, more appropriately
25 have been left absent from the letter had she been asked, in advance of the letter being sent, to offer a view on it. [The Director's] view on this matter does serve to highlight 'grey areas' within the guidance which rely on personal integrity in interpretation rather than offering hard proscriptive rules.

30 You will recall that this paragraph refers to getting "a change to the law to allow local authority operated ports the discretion to stop the use of their port for live animal exports for slaughter abroad". Further, I inform the reader that the Secretary of State is "actively considering a change in the law, now possible post-Brexit". This has now been confirmed upon many occasions by the Secretary of State for Environment, Food and Rural Affairs. I would therefore consider the phrase "now possible post-Brexit" that I used to be simply a statement of fact and accurate reporting of
35 statements from a Cabinet Minister and not in any way Party political. If I had used this phrase in communications using House of Commons resources pre-referendum I would entirely agree with [the Director's] analysis, but I do not in this situation and particularly at the time that the letters were sent out.

Whilst I beg to differ with [the Director] on the use of this particular phrase, I believe she has correctly understood the purpose of my letter and hope you will find both her and this reply useful as you consider matters further.

5 October 2017