



House of Commons
Committee of Privileges

**Matter referred on 21
April 2022: Co-ordinated
campaign of interference
in the work of the
Privileges Committee**

**First Special Report of Session
2022–23**

*Ordered by the House of Commons
to be printed 28 June 2023*

Committee of Privileges

The Committee of Privileges is appointed to consider specific matters relating to privileges referred to it by the House. The scope of any inquiry comprises all matters relevant to the matter referred.

Current membership

Andy Carter MP (*Conservative, Warrington South*)

Alberto Costa MP (*Conservative, South Leicestershire*)

Allan Dorans MP (*Scottish National Party, Ayr, Carrick and Cumnock*)

Yvonne Fovargue MP (*Labour, Makerfield*)

Ms Harriet Harman MP (*Labour, Camberwell and Peckham*) (*Chair*)

Sir Bernard Jenkin MP (*Conservative, Harwich and North Essex*)

Sir Charles Walker MP (*Conservative, Broxbourne*)

Powers

The powers of the Committee are set out in House of Commons Standing Orders, principally in SO No. 148A. These are available on the internet via www.parliament.uk.

Publications

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Committee reports are published on the Committee's website and in print by Order of the House.

Committee staff

The current staff of the Committee are Miguel Boo Fraga (Committee Operations Manager), Dr Robin James (Clerk), Su Panchanathan (Committee Operations Officer), Robi Quigley (Second Clerk), Silas Scott (Media Officer), Duncan Sim (Committee Specialist), and Mike Winter JP (Second Clerk).

The following staff also worked for the Committee during this inquiry: Arvind Gunnoo (former Committee Operations Officer) and Paul Connolly (former Media Officer).

Contacts

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Matter referred on 21 April 2022: Co-ordinated campaign of interference in the work of the Privileges Committee

1. Our inquiry into the matter referred on 21 April 2022 related to the conduct of Rt Hon Boris Johnson and was focussed on whether Mr Johnson had committed a contempt of Parliament by intentionally misleading the House of Commons. This special supplementary report puts on record our concern at the improper pressure brought to bear on the Committee and its members throughout this inquiry.¹ We are concerned in particular at the involvement of Members of both Houses in attempting to influence the outcome of the inquiry. Those Members did not choose to engage through any proper process such as the submission of letters or evidence to our inquiry, but by attacking the members of the Committee, in order to influence their judgement. Their aim was to (1) influence the outcome of the inquiry, (2) impede the work of the Committee by inducing members to resign from it, (3) discredit the Committee's conclusions if those conclusions were not what they wanted, and (4) discredit the Committee as a whole.

2. In our final report on Mr Johnson's conduct we drew attention to the fact that our democracy depends on MPs being able to trust that what Ministers say in the House of Commons is the truth. If Ministers cannot be trusted to tell the truth, the House cannot do its job and the confidence of the public in our whole political system is undermined.² A referral to the Committee of Privileges is the mechanism—in practice the only mechanism—which the House can use to defend itself in the face of a Minister misleading it.

3. The work of the Privileges Committee is therefore crucial to our democracy and must itself be protected. If the House agrees to a motion to refer a matter of conduct to the Committee, Members of the House must respect that decision and allow the investigation to proceed without interference. When a disciplinary matter is under investigation, it is not appropriate for Members to undermine the procedure of their own House.

4. Erskine May defines a contempt of Parliament as follows:

Any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of their duty, or which has a tendency, directly or indirectly, to produce such results, may be treated as a contempt even though there is no precedent of the offence.³ [...] It is therefore impossible to list every act which might be considered to amount to a contempt, as Parliamentary privilege is a 'living concept'.⁴

1 The Committee of Privileges is not able to initiate inquiries on its own initiative, but once matters are referred to the House it has "power to inquire not only into the matter of the particular complaint, but also into facts surrounding and reasonably connected with the matter of the particular complaint, and into the principles of the law and custom of privilege that are concerned" (CJ (1947-48) 22, 30 October 1947). In addition, Standing Order No. 133 states gives select committees power to make special reports on any matters they "think fit to bring to the notice of the House."

2 Committee of Privileges, Fifth Report of Session 2022–23, Matter referred on 21 April 2022 (conduct of Rt Hon Boris Johnson): Final Report (HC 564), published 15 June 2023, Summary, para 2

3 Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament, 25th ed. (2019), para 15.2

4 Ibid.

5. Erskine May is clear that “to molest Members on account of their conduct in Parliament is [...] a contempt. Correspondence with Members of an insulting character in reference to their conduct in Parliament or reflecting on their conduct as Members [...] have all been considered contempts. The Committee of Privileges has made the same judgement on those who incited the readers of a national newspaper to telephone a Member and complain of a question of which they had given notice. Speeches and writings reflecting upon the conduct of Members as Members have been treated as analogous to their molestation on account of their behaviour in Parliament.”⁵ Abusing or intimidating Members on account of “their conduct in their capacity of a Member” or imputations “that a Member nominated to a select committee would not be able to act impartially in that service” are included among those contempts.⁶

6. On 6 March 2023, before an Urgent Question on civil service impartiality, the Speaker reminded the House that the Committee of Privileges had been charged with undertaking the inquiry into Mr Johnson:

and it must be allowed to complete it without interference. It is for the Committee to decide how to weigh up the evidence before it, and any attempt to use this urgent question to prejudice proceedings will be out of order and will not be tolerated.⁷

7. The House’s ability to investigate and take action against those whose acts or omissions obstruct or impede the House in the performance of its functions, and to establish committees to investigate allegations of such contempt, is an important constitutional principle. It underpins the ability of the House to order its internal affairs as it thinks fit. Members need to be able to perform their tasks and it has been considered a contempt to molest or obstruct them in carrying out their duties.

8. MPs have control and legitimate means of influence over any Privileges Committee inquiry. They have the right:

- to object to and vote on Members appointed to the Committee, and subsequently to raise any alleged conflicts of interest on points of order;
- to vote against the motion of referral or to seek to amend the motion;
- to make comments on the Committee’s procedure to the Committee itself;
- to submit evidence to the Committee; and
- to debate, vote and comment publicly on the Committee’s final report once it is published and the investigation is completed.⁸

5 Erskine May’s *Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 25th ed. (2019), para 15.14

6 *Ibid.*

7 HC Deb, 6 March 2023, col 22

8 We note that an example of criticism of the Committee’s procedures being conducted in an entirely appropriate and parliamentary manner was given by Sir William Cash when he raised concerns relating to our present inquiry in the debate on the referral motion (HC Deb, 21 April 2022, cols 384–85), by way of an Early Day Motion (EDM 325, tabled on 21 July 2022) and through his contribution to the debate on the published report (HC Deb, 19 June 2023, col. 622–23).

9. What Members have no right to do, however, is attempt to undermine an inquiry or bring pressure to bear on the members of the Privileges Committee during the inquiry. An attack on the procedures of the House and on the impartial officers and advisers who support those processes is an attack on the legitimacy of Parliament itself.

10. In criminal investigations, the Contempt of Court Act 1981 limits what can be said publicly, and the House's sub judice rule limits what can be said in Parliament. This is a specific and time-limited restraint on free speech for the purpose of protecting juries and avoiding the prejudicing of proceedings.

11. The behaviour evidenced in this special report demonstrates that the expectation that Members will refrain from interfering in the work of the Privileges Committee in ways that impede its functions has been proved wrong. The process of a Privileges Committee investigation therefore requires more explicit protection, by a decision of the House, to enable the members of the Committee to carry out the work referred to them and to do so without interference.

12. Similar explicit protection already exists in House of Commons Standards cases involving alleged breaches of the Code of Conduct for MPs. The Code itself, which is approved by the House, requires that:

Members must not lobby a member of the Committee on Standards, the Independent Expert Panel or the Parliamentary Commissioner for Standards, or their staff, in a manner calculated or intended to influence their consideration of whether a breach of the Code of Conduct has occurred, or in relation to the imposition of a sanction.⁹

In Standards cases it is also accepted that proceedings are confidential until the process is concluded.

13. It is incumbent upon Members of the House of Commons to refrain from interfering in a Privileges Committee inquiry (or any other select committee inquiry for that matter) while it is in progress. Members of the House of Lords should also respect constitutional boundaries, and refrain from interfering with investigations carried out by the elected Chamber.

14. By his ruling on 6 March 2023 (see paragraph 6), the Speaker prevented abuse within the House, but what needs to be addressed is the campaign waged outside Parliament by some Members of the House of Commons and the House of Lords to undermine the Committee. Those involved used newspapers and radio and there was extensive use of social media. There were many examples but the Committee is particularly concerned about attacks mounted by experienced colleagues, including a serving Minister of the Crown, a former Leader of the House and a former Secretary of State for Digital, Culture, Media and Sport, and at least three Members of the House of Lords (one of whom is the serving Minister referred to above) who took it upon themselves to undermine procedures of the House of Commons. The former and current members of the Government we have referred to are Privy Counsellors. We have not catalogued every tweet or TV appearance, but have set out in an annex to this report some of the most disturbing examples of the co-ordinated campaign to interfere with the work of the Committee. The annex includes

9 House of Commons Code of Conduct, approved 12 December 2022 (HC 1083), para 14

the statements made by the individuals referred to above and of others who followed their example. This matter is made more difficult because two of the Members mounting the most vociferous attacks on the Committee did so from the platform of their own hosted TV shows. Attacks by experienced Members are all the more concerning as they would have known that during the course of an investigation it was not possible for the Privileges Committee to respond to the attacks.

15. Pressure was applied particularly to Conservative members of the Committee. This had the clear intention to drive those members off the Committee and so to frustrate the intention of the House that the inquiry should be carried out, or to prevent the inquiry coming to a conclusion which the critics did not want. There were also sustained attempts to undermine and challenge the impartiality of the Chair, who had been appointed to the Committee by unanimous decision of the House.¹⁰

16. This unprecedented and co-ordinated pressure did not affect the conduct or outcome of our inquiry. However, it had significant personal impact on individual Members and raised significant security concerns.

17. If abuse of Members who are carrying out the duties imposed on them by the House is allowed to continue, it is reasonable to conclude that in future Members would decline to serve on the Committee, or there might be a reluctance on the part of individuals approached as external advisers to serve in that role. If that happens, rather than making its decisions with the assistance of a report from a committee which can take advice and gather and evaluate evidence, the House might feel compelled to cede to an external authority the responsibility for protection of its rights and privileges.

18. Free speech is at the heart of parliamentary democracy. However, Members who, while an inquiry involving individual conduct is in progress, attack the honesty or the integrity of the Committee, or attack the process itself in a way clearly aimed at discrediting the Committee or steering the Committee towards a particular outcome, are interfering in disciplinary proceedings set up by the House in a way that is unacceptable.

19. We consider that the House should maintain its protection of inquiries into individual conduct referred to the Committee of Privileges in the same way that it does those being considered by the House's own Committee on Standards and Independent Expert Panel.

10 We note the following exchange on the floor of the House during the debate on the Committee's report on 19 June 2023:

Sir Jacob Rees-Mogg (North East Somerset) (Con): "I wonder whether the right hon. and learned Lady could say something of her own position in relation to the precedent set by a judicial Committee of the House of Lords, when a decision in which Lord Hoffmann was involved was set aside not because he was biased, but because of the perception of bias. In relation to her famous tweets, how does she think she met the Hoffmann test?"

Ms Harriet Harman (Camberwell and Peckham) (Lab): "I am happy to answer the right hon. Gentleman. I was appointed by this House in the expectation that I would chair the Committee, with no one speaking against it. After the tweets were brought to light and highlighted, as I am concerned about the perception of fairness on the Committee—I agree that perception matters—I made it my business to find out whether it would mean that the Government would not have confidence in me if I continued to chair the Committee. I actually said, "I will be more than happy to step aside, because perception matters and I do not want to do this if the Government do not have confidence in me. I need the whole House to have confidence in the work that it has mandated." I was assured that I should continue the work that the House had mandated, and with the appointment that the House had put me into, and so I did just that."

(HC Deb, 19 June 2023, cols 597–98)

20. *We recommend that the House agree a Resolution in the following terms:*

That this House:

- a) *notes with approval the Special Report from the Committee of Privileges;*
- b) *considers that where the House has agreed to refer a matter relating to individual conduct to the Committee of Privileges, Members of this House should not impugn the integrity of that Committee or its members or attempt to lobby or intimidate those members or to encourage others to do so, since such behaviour undermines the proceedings of the House and is itself capable of being a contempt; and*
- c) *considers it expedient that the House of Lords is made aware of the Special Report and this Resolution, so that that House can take such action as it deems appropriate.*

21. **If the Government fails to table such a motion within a reasonable time, we note that any Member has the power to write to the Speaker to ask for the matters in this Special Report to be given precedence as a matter of privilege. If Mr Speaker does grant precedence, that Member will be able to table an appropriate motion to enable the House to reach a decision on those matters. Such a motion would be debatable and amendable.**

22. **It will be for the House to consider what further action, if any, to take in respect of Members of the House referred to in this special report.**

Annex

Tweets and comments referred to in Paragraph 14 of the report¹¹

Date	From	Platform	Remark / Comment
15 June 2023	Rt Hon Nadine Dorries MP	Twitter	"We also need to keep a close eye on the careers of the Conservative MPs who sat on that committee. Do they suddenly find themselves on chicken runs into safe seats? Gongs? Were promises made? We need to know if they were. Justice has to be seen to be done at all levels of this process."
9 June 2023	Rt Hon Lord (Zac) Goldsmith	Twitter	In retweeting a tweet calling the inquiry a witch hunt and kangaroo court, stated: "Exactly this. There was only ever going to be one outcome and the evidence was totally irrelevant to it."
9 June 2023	Mark Jenkinson MP	Twitter	"When the witch hunt has been forgotten, future generations will look back in astonishment."
9 June 2023	Michael Fabricant MP	Twitter	"Serious questions will need to be asked about the manner in which the investigation was conducted. These were no jurists as was apparent by the tone of the examination. The question of calibre, malice and prejudice will need to be answered now or by historians."
9 June 2023	Brendan Clarke-Smith MP	Twitter	"Tonight we saw the end result of a parliamentary witch-hunt which would put a banana republic to shame. It is the people of this country who elect and decide on their MPs. It's called democracy and we used to value it here. Sadly this no longer appears to be the case."
23 March 2023	Rt Hon Nadine Dorries MP	Talk TV	"I don't think there was ever a world in which this committee was going to find Boris innocent. The committee have demonstrated very clearly that they have decided early on to find him guilty. The Committee knew that they had not a shred of evidence to prove that he misled with intent. They changed the rules, lowered the bar and inserted the vague term reckless into the terms of reference. Boris Johnson will be found guilty by this kangaroo court. There is no doubt about that and that in itself will be a disgraceful and possibly unlawful conclusion with serious reputational consequences."

¹¹ Titles of individuals in this annex are given as they were at the time the statements cited were made.

Date	From	Platform	Remark / Comment
22 March 2023	Rt Hon Jacob Rees-Mogg MP	BBC Radio 4	Asked whether he shared the view expressed by some of Mr Johnson's supporters that the process was a kangaroo court, said: "I think it makes kangaroo courts look respectable."
21 March 2023	Andrea Jenkyns MP	Twitter	"I hope to see him fully exonerated and to put an end to this kangaroo court."
20 March 2023	Rt Hon Jacob Rees-Mogg MP	GB News	"The privileges committee is not even a proper legal setup. It has a gossamer of constitutional propriety thrown over it, but it is in fact a political committee against Boris Johnson"
16 March 2023	Rt Hon Priti Patel MP	GB News	"How can a handful of Members of Parliament in a Committee, you know, really be that objective in light of some of the individual comments that have been made. I don't want to name people, but you know, it is a fact, the lack of transparency—the lack of accountability... I think there is a culture of collusion quite frankly involved here."
3 March 2023	Rt Hon Nadine Dorries MP	Twitter	"They have nothing. He protested his innocence all along and he was right. It was a gross miscarriage of justice, at the very least..."
1 September 2022	Rt Hon Nadine Dorries MP	Daily Mail	"This expert legal opinion shows that the inquiry was a biased, Kafkaesque witch-hunt - it should now be halted before it does any more damage."

Conservative Post email campaign

An example of selective pressure brought to bear on Conservative members of the Committee was the email campaign instigated by the Conservative Post website, urging those members to stand aside from the Committee and alleging that the inquiry was “deeply flawed, biased and unfair”. Two Members of the House of Lords, whose peerages were conferred on the recommendation of Mr Johnson, were among over 600 people who emailed Committee members using the template email devised by Conservative Post. Conservative Post is the online magazine of the Conservative Democratic Organisation, whose President is Lord Cruddas and whose Vice-President is Lord Greenhalgh. On Tuesday 14 March 2022, shortly before the oral evidence session with Mr Johnson held on 22 March, Conservative Post contained the following article:

Dear Members, We need your help to protect the integrity of our political system and the Conservative Party.

As you may know, four Conservative MPs are currently taking part in a Labour-led investigation into former Prime Minister Boris Johnson. We believe that this investigation is deeply flawed, biased and unfair, and is bringing both Parliament and our Party into disrepute.

We believe that all four Conservative MPs – Andy Carter MP for Warrington South, Alberto Costa MP for South Leicestershire, Sir Bernard Jenkin MP for Harwich and North Essex, and Sir Charles Walker MP for Broxbourne – should step down from this Labour-led Privileges Committee immediately.

This will send a strong message that we will not tolerate politically motivated attacks against our Party, and that we stand firmly behind our elected representatives.

We urge you to take action today by completing the form below to let the four Conservative MPs know that you want them to step away from this biased investigation.

Your voice matters, and we need your support to ensure that our Party and our country are protected from politically motivated attacks.

As soon as you fill in your details and click submit (below) your email will shoot off to all four Conservative MPs. Let’s make a stand. Thank you for your continued support.

Claire Bullivant – Founder and Editor, Conservative Post

PLEASE FILL IN BELOW AND PRESS SUBMIT

To Andy Carter MP for Warrington South, Alberto Costa MP for South Leicestershire, Sir Bernard Jenkin MP for Harwich and North Essex, and Sir Charles Walker MP for Broxbourne,

We are writing to express our deep concern and disappointment over your participation in the Labour-led investigation into Prime Minister Boris Johnson. As members and supporters of the Conservative Party, we believe that this investigation is deeply flawed, biased, and unfair, and is bringing both Parliament and our Party into disrepute.

We believe that this investigation is nothing but a politically motivated attack against our former Prime Minister, and it is not based on facts or evidence. The processes being applied to our Parliamentary democracy are reminiscent of a banana republic and are no longer objective or independent. We have witnessed collusion within the Civil Service and now within the Conservative Parliamentary Party and the office of the Prime Minister to reputationally smear and impugn Boris Johnson MP.

As respectable Conservative MPs, we urge you to stand up for justice and reject this corrosive rot within our politics and Party.

We have seen the opinion of Lord Pannick, and we know the deep regard in which he is held, and that his independence is unimpeachable.

We implore you to protect your own integrity by rejecting this committee, including rejecting secret witnesses who say they are bullied, rejecting the biased report of Sue Gray, rejecting the lack of natural justice, and rejecting the change of the offence after the event. We know what a lie is, and it is not making a mistake.

It is time for you to stand up for democracy, stand up for justice, and protect the integrity of our political system. There must be no show trials in our nation.

We urge you to take action and protect your integrity by resigning from this committee immediately.

Signed:

Email the Privileges Committee Conservative MPs

Over 600 emails to Conservative members of the Committee followed over the next few days. They included emails appearing to come from Lord Cruddas and Lord Greenhalgh.

Formal minutes

Wednesday 28 June 2023

Members present:

Ms Harriet Harman, in the Chair

Andy Carter

Alberto Costa

Allan Dorans

Yvonne Fovargue

Sir Bernard Jenkin

Sir Charles Walker

Draft Special Report (*Matter referred on 21 April 2022: Co-ordinated campaign of interference in the work of the Privileges Committee*) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 22 read and agreed to.

Annex agreed to.

Resolved, That the Report be the First Special Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Adjournment

The Committee adjourned.

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2022–23

Number	Title	Reference
1st	Select committees and contempts: review of consultation on Committee proposals	HC 401
2nd	Matter referred on 21 April 2022: proposed conduct of inquiry	HC 632
3rd	Matter referred on 21 April 2022: comments on joint opinion of Lord Pannick QC and Jason Pobjoy	HC 713
4th	Matter referred on 21 April 2022: summary of issues to be raised with Mr Johnson	HC 1203
5th	Matter referred on 21 April 2022 (conduct of Rt Hon Boris Johnson): Final Report	HC 564

Session 2019–21

Number	Title	Reference
1st	Select committees and contempts: clarifying and strengthening powers to call for persons, papers and records	HC 350