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## The offering of a financial advantage in exchange for the resignation of a seat in parliament

### ECPRD Request No 6116

Following a specific case, the Folketing is currently engaged in discussions on the more fundamental legal and constitutional issues that may arise in situations where a Member of the Folketing is offered or receives a financial benefit from others — including individuals affiliated with the Member's political party — on the condition that the Member resigns their seat. These discussions include consideration of whether there is a need to introduce a prohibition against such arrangements.

In preparation for a potential future regulation of the matter, answers are therefore sought to the following questions.

#### Questions

1) Is there any legislation or other form of regulation, such as a code of conduct, that prohibits

- (i) a Member of Parliament from accepting a financial advantage on the condition that they resign their seat;
- (ii) the act of offering such a proposal, including by individuals from the member's own party.

2) If so, what does the regulation entail, and how is it enforced?

## Response

These scenarios would be covered by internal regulation and the rules associated with exclusive cognisance, that is Parliament has “sole jurisdiction ... over all matters subject to parliamentary privilege”.<sup>1</sup>

An MP accepting financial advantage may be in breach of any of the following rules of the [Code of Conduct](#) (PDF):

### Rule 3

- The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.

### Rule 2

- Members must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

### Rule 11

- Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.

The process for enforcement of the code is set out in the published [Procedural Protocol in respect of the Code of Conduct](#) (PDF).

The offering of a financial advantage could potentially be a contempt of Parliament.

## Box 1: Contempts of Parliament

Each House also claims the right to punish contempts. These are actions which, while not necessarily breaches of any specific privilege, obstruct or impede it in the performance of its functions, or are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its Members or its officers.<sup>2</sup>

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<sup>1</sup> Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#) (PDF), 3 July 2013, HC 100 2013-14, para 15

<sup>2</sup> Erskine May, *Parliamentary Practice*, 25th edition, 2019, [para 12.1](#); Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#) (PDF), 3 July 2013, HC 100 2013-14, para 3

If there was prima facie evidence that a contempt had been committed, the House is likely to refer the matter to the Committee of Privileges to investigate. The Committee of Privileges would report its conclusions to the House.

The penal powers of the two Houses of Parliament are uncertain.<sup>3</sup> If the committee found a breach of privilege, it would be likely to recommend the censure of the individual concerned.

If the committee considered during its inquiry that laws had been broken, it would refer the matter to the police and put its inquiry on hold while any police investigation took place.

Because individuals are appointed to the House of Lords, there are sometimes reports that political parties indicate to their MPs that if they retire at a general election, they are likely to be appointed to the House of Lords. I am not sure whether this constitutes financial advantage but I have been advised that party management would not be considered a contempt.

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<sup>3</sup> Joint Committee on Parliamentary Privilege, [Parliamentary Privilege](#) (PDF), 3 July 2013, HC 100 2013-14, chapter