

Consultation on Proposals for an independent complaints process

Submissions

Committee on Standards

Website www.parliament.uk/standards

From Kate Green MP, Chair of the Committee

Rt Hon Lindsay Hoyle MP
The Speaker
House of Commons
London SW1A 0AA

17 March 2020

Dear Mr Speaker,

Cox III consultation

I am writing to you in your capacity as Chair of the House of Commons Commission, to convey some comments by the Committee on Standards in response to the Commission's consultation on its "Cox III" preferred option.

The Committee is grateful to the Commission for agreeing to our request to allow the Committee to submit comments after the expiry of its deadline on 8 March. As you know, the Committee was only re-established on 2 March, so we appreciate the opportunity to make a late submission.

I should emphasise that the Committee in this Parliament, like its predecessors in the last Parliament, is very aware that it is an integral part of the system that was the subject of Dame Laura Cox's critique in her 2018 report. Notwithstanding this, the Committee is the body charged by the House with the oversight of its standards system, under Standing Order No. 149, and we thought it would be useful to communicate our views.

We have not had time to conduct an inquiry or to take evidence, and therefore what follows is not meant to be an exhaustive scrutiny of the preferred option, but a series of observations and queries which we hope will be of use to the Commission.

1. We acknowledge the work done by the staff working group in developing Cox III options, and are grateful that our lay member Jane Burgess was given the opportunity of contributing to this.
2. The consultation paper states that under the preferred option "*[a]s now*" [our italics], the Commissioner "would retain the power to [...] impose sanctions up to a certain level of severity". It might be helpful to observe that, strictly speaking, the Commissioner does not currently have the power to impose sanctions, only to agree rectifications. We note that the ICGS Delivery Report, approved by the House in July 2018, refers to standing order changes being required to confer on the Commissioner

the power to propose “remedies—in effect, sanctions—if she sees fit [...] within a framework agreed by the [Standards] Committee” (Delivery Report, para 53). Such remedies/sanctions might include apologies, training or behaviour agreements. We plan shortly to resume our predecessors’ unfinished inquiry into sanctions, which will address (amongst other issues) whether an expanded suite of sanctions appropriate to ICGS cases should include sanctions which the Commissioner has the direct authority to impose herself.

3. The consultation paper makes clear that the proposed panel will operate through two sub-panels comprising three members each, one to consider sanctions and the other appeals (including appeals against sanctions). We assume that the overall size of the panel must be at least 7 or 8, to allow for two sub-panels (with non-overlapping memberships) to be set up at the same time, allowing for the unavailability of one or more panel members through illness, holiday, etc. It would be useful for the Commission to make clear what proportion of the panel would consist of people with juridical/legal expertise, and what proportion of people with alternative kinds of experience, and how it would expect this split to be reflected on each sub-panel.
4. We agree with the Commission that the interaction between the panel and the House is an area of potential difficulty. The logic of excluding MPs is that when a panel report comes before the House for decision, no panel member will be present to answer questions or defend the report in debate. The Commission sets out two options for tackling this problem, either to put the report and recommendations to the House without debate (as in the Lords), or for a spokesperson from the Commission to attend the debate “to speak for the integrity of the process”. Each of these options is an attempt to “square the circle” of creating a system entirely independent of MPs, while respecting the constitutional fact that the House must have the final say on suspension or expulsion of its own members. Whichever solution to this problem is adopted, a certain awkwardness is bound to remain.
5. We note the consultation document does not address issues of parliamentary privilege. The extent to which the panel’s work will be within the scope of Article IX of the Bill of Rights 1689, and therefore not subject to review or challenge by the courts, is an important question.
6. We hope that when the Commission has assessed the consultation responses, it will set out publicly a clear timetable for the next steps, including when the matter will be put to the House for decision, and (if the preferred option is approved) when it is expected that the recruitment procedures will be completed and the independent panel be able to begin work.
7. We believe that the proposal put to the House should be fully worked up, so that the

House is aware precisely what it is deciding upon and can assess the implications objectively. Both the previous Committee and the Commissioner argued at the time that it was a mistake to rush to introduce the ICGS in July 2018, before the contents of Dame Laura Cox's report was known, and there is a danger of repeating that mistake now. The standards system has developed in a piecemeal fashion, with major changes often being a reaction to a crisis or scandal, and that is about to be repeated. Any proposal that is not fully thought through will introduce even more incoherence into an already incoherent system, and further erode public confidence in that system.

8. We are conscious that, even if there is rapid progress, inevitably there will be an interim period in which the Standards Committee remains responsible for ICGS sanctions and appeals. The previous Committee announced its policy on ICGS appeals in March 2019 (Sixth Report of Session 2017-19, *The Committee's role in ICGS appeals* (HC 1976)), and subsequently set up an ICGS Matters Sub-Committee, which heard one appeal. No ICGS cases involving sanctioning have yet been referred to the Committee. We plan shortly to re-appoint the sub-committee.
9. We will carry out to the best of our ability our duties in relation to the ICGS, as imposed upon us by decision of the House on 19 July 2018, until the House discharges us from that responsibility.
10. In doing so we are mindful of the importance of demonstrating that, even under any interim arrangement, the process will not be a matter of "Members marking their own homework". As you know, the Committee consists of equal number of MPs and lay members, the latter chosen from the general public by fair and open competition. Since January 2019 the lay members have had full voting rights on the Committee, which in practice means that (because the elected Chair has only a casting vote) they have a voting majority. The Committee has decided that in no circumstances will it challenge or seek to overturn a decision by the Sub-Committee on ICGS Matters (which in any case has, unusually for a sub-committee, the formal right to report directly to the House without reference to the main Committee (under Standing Order No. 149 (7)(b))).
11. I hope that the above arrangements will give the Commission reassurance that the Committee will act fairly and scrupulously in dealing with any ICGS cases referred to it during any interim period. We would be grateful if, for the avoidance of doubt, the Commission could make clear in its next public statement on Cox III that the Committee will have this interim role. Nonetheless, if the House decides to adopt the preferred option, the sooner this is fully implemented and responsibilities transferred, the better.
12. Finally, in addition to the comments above relating to the 'Cox III' consultation, we

wish to raise a further issue relating to the ICGS more generally. We note that there is a potential disjunction between employment law and rights, on the one hand, and the operation of the Scheme on the other, insofar as the Scheme regulates the relationship between a Member and their staff. We consider that this issue remains open and unresolved, and we recommend that the Commission should seek further advice on ways of addressing it. These might include seeking an opinion from Counsel specialising in employment law, discussing the matter with interested stakeholders including the House of Commons Trade Union Side, and placing the issues on the agenda of the forthcoming "18 month review" of the ICGS.

Yours ever,

A handwritten signature in blue ink, appearing to read 'kate green', with a wavy underline.

KATE GREEN MP

CHAIR, COMMITTEE ON STANDARDS



HOUSE OF COMMONS

Governance Office,
Committee Corridor,
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5 March 2020

Dear House of Commons
Commissioner

Thank you for the Cox III consultation paper which I have now had the opportunity to consider.

Please find enclosed my response together with my amendments to your flowchart showing the proposed new process.

Yours Sincerely

A handwritten signature in cursive script, appearing to read 'Kathryn Stone', with a long horizontal flourish extending to the right.

Kathryn Stone OBE

The Response of the Parliamentary Commissioner for Standards to the Cox III Consultation Paper

Background

The Dame Laura Cox Report was published in 2018. Dame Laura considered the nature and extent of bullying, harassment and sexual misconduct by both House of Commons staff and Members of Parliament, together with the existing procedures for dealing with complaints and the 'culture' of the House as a place of work. She made three main recommendations, all of which the Commission accepted without reservation, including the following:

"Steps should be taken, in consultation with the Parliamentary Commissioner for Standards and others, to consider the most effective way to ensure that the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, in which Members of Parliament will play no part."

The House of Commons Commission has agreed its preferred option for meeting this recommendation which is now the subject of public consultation.

The Parliamentary Commissioner for Standards

My role is wide ranging and includes:

- the investigation of allegations that MPs have broken paragraphs 11-17 of the Code of Conduct for Members and deciding and resolving cases;
- overseeing the investigation of complaints from the parliamentary community about harassment, bullying or sexual misconduct by MPs, and deciding and resolving cases (this includes deciding whether any such behaviour is also a breach of paragraph 18 of the Code of Conduct for Members);
- in more serious cases (both ICGS and others), referring the matter to the Committee on Standards to consider further action, including sanction.

The current procedure for ICGS complaints against MPs

Currently, if there is an allegation of bullying, harassment or sexual misconduct by an MP the procedure is as follows:

- The complainant contacts the relevant independent helpline.
- If the complainant decides to proceed to a formal complaint an independent investigator is allocated to the case and conducts an initial assessment.
- The investigator submits an initial assessment to me, including their recommendation on whether I should initiate a formal investigation.
- Following any formal investigation, the investigator sends me a report, including a recommendation on whether to uphold the allegation. If the allegation is upheld, I decide on the appropriate remedial action, unless the case is so serious that I must make a referral to the Committee on Standards by way of a formal Memorandum.

- The Committee on Standards, which has seven lay and seven MP members, considers my Memorandum and decides whether to impose a sanction. If the Committee considers suspension or expulsion to be appropriate, that recommendation must be considered by the House itself.
- There are some issues with the current procedure which are outside the scope of this consultation, and which I have raised elsewhere.

The Preferred Option

The Commission has put forward a preferred option for consultation which is described as follows:

"The preferred option is to establish an independent expert panel to replace the Committee on Standards in considering ICGS cases. As now, the Parliamentary Commissioner for Standards (PCS) would retain the power to determine cases and impose sanctions up to a certain level of severity. The new independent expert panel would consider cases where more serious sanctions were considered appropriate and also hear appeals by either party against the PCS's conclusions. In a serious case, three of the independent experts would consider the appropriate sanction in the light of the PCS's report and recommendation. A further three would act as an appeal panel if necessary."

The flowchart included in the consultation document outlines the proposed new procedure.

Consultation Questions

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the ICGS?

I broadly agree with the Commission's preferred option for ICGS complaints subject to the following:

- If I uphold a complaint following a formal investigation, it is currently for me to decide, without reference to anyone else, whether the options available to me are adequate to conclude the matter, or whether to refer the case to the Committee on Standards for sanction. A similar provision should apply in the new procedure.
- Either party should be able to appeal to the independent panel if they disagree with my finding and the complainant should be able to appeal the decision not to refer to the independent panel for sanction. The grounds for appeal should be that the investigation or decision making was procedurally flawed, or significant new evidence has become available.
- If I refer a case to the independent panel for consideration of sanction, the panel should decide, or where appropriate recommend to the House, the sanction. The panel should not re-examine the case (see amended flowchart). Both parties should have the power to appeal the decision of the independent panel on the grounds that that the investigation or decision making was procedurally flawed, or significant new evidence has become available.
- I have made some amendments to the flowchart which accompanies this consultation to clarify the proposed new procedure.
- Clearly, great care will be needed in recruiting the independent panel. Members must have sufficient skills and experience to be credible. They should have diverse experience and come from a variety of backgrounds. The panel should include people with experience in

the administration of civil justice, human resources, employment practice, judicial and quasi-judicial decision-making.

- The Panel's proceedings should be strictly confidential. But there will need to be careful consideration of the manner in which its decisions should be disclosed, for example of how much information should be given out to the parties involved.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report

- It is essential that the scheme has the trust and confidence of the parliamentary community and beyond. Unauthorised disclosure of the details of a complaint and re-opening of matters which have been determined through a previously agreed independent procedure could undermine that trust and confidence.
- It is for the House itself to decide whether it is appropriate to debate questions on suspension or expulsion of a Member. However, I would welcome any change to the process which would reduce the risk of unauthorised disclosures and discourage the re-opening of matters already determined through an independent, impartial, fair and thorough procedure which, itself, has already been agreed by the House.

The Recall of MPs Act 2015

I have one further comment. At present if a Member is suspended for a certain number of days following the recommendation of the Committee on Standards, the provisions of the Recall Act can be triggered. If the suspension is recommended by an independent panel (rather than by the Committee on Standards) these provisions will not apply unless the Act is amended. There is a risk that support for the new scheme may be eroded if the public are unable to petition for a by-election when an MP has been suspended because they have been found to have bullied, harassed or sexually harassed a member of the parliamentary community.

Should the independent expert panel include a former Member?

No. I see no reason why the Independent Panel could not ask for evidence either from the House authorities or from a nominated MP or MPs if they considered that necessary to help them arrive at an appropriate sanction or to consider an appeal. Appointing a former Member as a panel member would seem contrary to Dame Laura's third recommendation.

Conclusion

I support the Commission's preferred option in principle, subject to the following elements of this option being clarified.

- The decision to make a referral to the Independent Panel for consideration of a sanction should remain with me.

- Both parties should have a right of appeal to the independent panel against my decision. An appeal against my finding that the case is or is not upheld should be on the grounds that that the investigation or decision making was procedurally flawed, or significant new evidence has become available.
- The role of the independent panel should be to a) determine the appropriate sanction and not to re-examine the case where the matter has been referred by me for sanction; and b) to consider appeals by either party.

Kathryn Stone OBE

Parliamentary Commissioner for Standards

5 March 2020

22 RESPONSE TO – COX RECOMMENDATION – INDEPENDENT COMPLAINTS PROCESS

In seeking to implement the important principles of the Cox report, the 1922 Executive has discussed the question of the most appropriate model to ensure a properly independent complaints process, capable of ensuring that fair and just outcomes are achieved. It is our view that an independent process is essential but that it would be wrong to imagine that the independent process can only be achieved by removing Members of Parliament entirely. Other independent complaints and disciplinary processes such as that operated by the Medical Practitioners Tribunal Service include a mixture of lay members and those who are members of the profession. There is no reason why this could not be the case for an independent tribunal hearing cases relating to a Member of Parliament.

It is important to recognise that the appointment of people entirely from outside parliament does not guarantee true independence. It is likely that those who might apply to be members of such panels might themselves have a strong political interest, and possibly a political agenda.

We feel very strongly that the recommendation that panels should be comprised of 'experts' should be rejected. This flies in the face of all normal principles of justice. In a criminal trial, a jury is normally composed of members of the public chosen without reference to expertise or professional background. Tribunals recruited to hear complaints about doctors, nurses or accountants are deliberately not made up of experts in the doctor's specialism. Their training and 'expertise' is in obtaining and analysing evidence (which may include evidence from an expert in order to reach determinations on matters of fact and sanction). A tribunal hearing an allegation of sexual harassment against a surgeon is not made up of experts on sexual harassment – and nor should a panel hearing a case against a Member of Parliament be so comprised.

The committee is strongly of the view that if a panel is to be entirely independent of parliament, then its expertise should be the interpretation of rules and the evaluation of evidence. This implies that the panel should comprise one or more people with judicial experience sitting as officers of Parliament. Furthermore, the importance and sensitivity of dealing with cases involving Members of Parliament and the constitutional significance that arises when a decision might have the effect of depriving people of their preferred representative in our national parliament, implies that panel members should be at a very high level of seniority. The committee suggests that the appropriate level of expertise for these decisions would be that of High Court Judge or a retired High Court Judge. Whether sitting singly or as part of a panel, this would ensure genuine independence and a proper understanding of the principles of justice. A high court judge chairing a tribunal alongside two senior barristers might also be an appropriate way forward.

The committee noted the absence of any proposed appeal process – something that would be considered essential in any other legal or disciplinary process. We also think it is essential that Members facing complaints should be entitled to legal representation. This is especially important given the extent to which Members might be exposed to complaints that are vexatious or politically motivated.

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To achieve due process in relation to parliamentary complaints, there needs to be consistency in the disciplinary procedures that are followed as between those which involve the Commissioner, the Committee of Standards and Privileges and any other body, such as the one proposed. However important bullying and harassment is, members of Parliament should be subjected to the same disciplinary procedures in principle for every type of complaint. The Cox report would create a special and different regime for bullying and harassment and in any case does not prescribe a specific procedural system for the purpose.

Whatever the composition of the panel tasked with a finding of fact, the Committee believes that following the publication of that determination, the appropriate body to determine sanction should be the Committee on Standards and Privileges.

The existence of a public finding of serious misconduct against a Member would place an expectation on the Committee on Standards and Privileges to recommend a serious sanction to the House. Experience suggests that once a sanction has been recommended in this way, the House normally accepts that recommendation.

There also appears to be a serious unintended consequence in the detail of the Cox recommendation: if a serious sanction such as a suspension long enough to merit a recall petition were to be recommended by a body other than the Standards and Privileges Committee, then the recall law would not be triggered. The implementation of the Cox recommendation might therefore have the perverse consequence of reducing the penalty available for the most serious misconduct.

 - 1922 COMMITTEE



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Consultation Proposal: Independent Complaints Process under the ICGS **Response of the Centre for Women's Justice**

1. The Centre for Women's Justice represents a number of former women employees of the House of Commons Service, on whose behalf it has prepared these submissions.
2. Each of our clients has experienced bullying, harassment and/or sexual misconduct during the course of their employment and gave evidence to the Cox Inquiry in their own right. The Centre for Women's Justice also provided written submissions to the Cox Inquiry on behalf of these clients collectively, on 3rd August 2018.
3. In addition, by letter dated 5th September 2019 we set out our clients' key recommendations to the Development Lead for the Independent Complaints and Grievance Scheme for the development of a rigorous and wholly independent process for the investigation and assessment of complaints under the Scheme. In broad terms, our submissions were:
 - Any system which hopes to have the trust of House of Commons staff, and the general public, must be *wholly* independent of MPs' influence.
 - Allocating ICGS cases to a sub-committee of the Committee on Standards with a lay Member majority was not sufficient to make the ICGS process independent.
 - We called for a statutory system based on the IPSA model, involving an independent, single-purpose authority made up of a panel of independent decision-makers, with its own range of statutory powers, including the power to determine a wide range of sanctions.
 - A statutory system based on the IPSA model, although it would require legislation, was necessary to address the serious damage caused to public trust in the House of Commons. This was proportionate and appropriate given that the harassment and bullying highlighted by Dame Laura Cox had been shown to have had a large-scale, chilling and discriminatory effect on the career progression of women within the Parliamentary Community. Bullying and harassment (including sexual harassment is an abuse of power and office on the

same scale as impropriety in the use of public money.

4. We welcome the opportunity to respond – as before, together – to the independent complaints process that has now been proposed.

The independent panel and the rejection of the IPSA model

5. Our clients welcome the strides that the Commission has made towards a more independent process, and the establishment of a panel of independent, expert decision-makers to assess ICGS cases. It is clear that the ICGS simply cannot function as a credible and independent complaints scheme, or hope to have the confidence of staff members, until it is seen to be truly independent.
6. They are however extremely disappointed that the proposals of the Commission would leave the proposed panel without any statutory footing, with limits to its independence, with a limited role and a limited range of powers. We regret that the Commission has rejected the IPSA model with no foundation. IPSA was necessary to restore public trust in Parliament following the expenses scandal; the Commission has either underestimated the damage which bullying, harassment and sexual harassment has done to the reputation of our legislature or it has chosen to place other administrative interests (whether the interests of Members or senior staff or costs) over the safety of the women (and men) who work at the Palace of Westminster and beyond. The mother of Parliaments must provide a safe workplace – for its female employees especially – to repair the public trust lost following the revelations of serious misconduct which emerged in 2017/18 and which were confirmed by Dame Laura Cox. Compromise may be pragmatic; for the women we represent, a compromise on true independence will undermine much of the good work done so far by the Administration and others.
7. A statutory complaints authority could be designated specific powers to compel Members to co-operate, whereas it is not clear in the case of the panel proposed in the consultation what steps could be taken if a Member defied requests for evidence, for example, or failed to comply with deadlines, or refused to attend hearings. The non-cooperation of accused Members is undoubtedly an issue that the new panel will face, and there is no doubt that it hinder its powers of investigation and sanction unless the panel is fully empowered to (a) require the attendance and full co-operation of accused Members and (b) impose sanctions for failing to do so. It is precisely this problem which has stymied the House's investigations into Members

facing serious charges for inappropriate conduct in recent years. The women we represent gave evidence to the Cox Inquiry that each of these behaviors were hallmarks of the old, failing systems and apparent when women had the courage to speak up about their poor treatment and abuse at work. In the Welsh Assembly – following legislation – it is a criminal offence for Members not to co-operate with the complaints process. If this can be achieved in Wales, why not in Westminster? A wholly independent, single-purpose, statutory body would – judging by the IPSA model – be subject to more effective regulation and independent scrutiny than a rotating panel of decision-makers appointed by the Commissioner for Standards.

8. If the creation of a complaints authority analogous to the IPSA model has been ruled 'disproportionate' or costly; this is – put simply – insulting to our clients, and to all other employees and former employees of the House of Commons who gave evidence to Dame Laura's inquiry.
9. Parliament is simply not a safe place to work. Without exception, our clients have all suffered long-term consequences in terms of their career, and their mental health, resulting from the sustained abuse to which they were subjected in the workplace while in the House of Commons' employment. It is clear, too, that many of the behaviours identified in Dame Laura's report - and the culture which enabled those behaviours - have had a disproportionate, and therefore discriminatory, impact on women within the Parliamentary Community. The Parliamentary Community has long benefited from a culture which has turned a blind eye while some people abused their status and privilege to bully, victimize and harass their colleagues or even to subject more junior members of staff into unwanted sexual contact. Much of the conduct described to Dame Laura, amounted to criminal behavior – sexual harassment and assault – which went unaddressed by the House. Dame Laura's report showed that the behaviour of many senior staff and Members was not simply a matter of *personal* disrepute but it damaged the reputation of both Houses. We reiterate that this conduct is just as serious a stain on the reputation and proper functioning of Westminster as the improper use of public funds.
10. We urge the House to reconsider the IPSA model. The history, Dame Laura's recommendations and the views of victims of bullying and harassment (who were further disrespected by the historic failure of the House to treat their reports with respect) must be regarded as paramount. Respectfully, the Commission cannot expect to have the full confidence of staff/former staff of the House of Commons unless it is able to demonstrate that victims of abusive behaviour have been listened to.

11. Our clients maintain that only the 'IPSA model', bolstered by new legislative authority, will fully give victims confidence in the system. Any outstanding concern that Members of the House would reject such a system if asked to legislate has echoes of the self-serving and privileged environment which Dame Laura criticised in her report. Any such concern should be addressed head on. This is not reason for caution or compromise, but testament to the need for the Commission to act decisively.
12. The remainder of these submissions respond to elements of the process proposed.

The role of the Parliamentary Commissioner for Standards in decision-making

13. The process proposed involves the Parliamentary Commissioner for Standards retaining a role in decision-making. It appears that, in the first instance, she will decide whether a case is sufficiently 'serious' to refer up to the independent panel/tribunal. If she decides that it is *not* sufficiently serious, she will then retain the case so as to make her own decision on the appropriate outcome and sanctions, albeit that there is then a right for either party to appeal her decision(s) to the independent panel/tribunal.
14. We have a number of reservations regarding the proposed role for the Commissioner within the new decision-making process:
 - a. The Commission appears to have recognised the need for an independent process founded on the principle that complaints should be referred to an external, expert tribunal that is wholly independent of the House. If this is needed to ensure public confidence in the House; then why not treat *all* misconduct complaints related to bullying, harassment or sexual harassment in this way? The point we make is not that the Commissioner not capable of performing this role or that she will do so improperly, but simply that an independent tribunal process should be wholly independent. It should not require "screening" by an existing officer of the House (albeit an officer who is nominally independent of the functions of the House). A system where *all* complaints are determined by an independent panel/tribunal of experts will be better perceived by staff members considering a complaint and the general public, and instil greater confidence in the process.

- b. In any event, where complaints are deemed by the Commissioner – rightly or wrongly – to be ‘less serious’, complainants will be disadvantaged as the Commissioner will determine their complaint without routine access to specialist expertise or advice. By contrast, a panel/tribunal of appointed experts will bring a spectrum of opinions and experience to bring to the collective decision-making process. The failure of previous complaints procedures – as identified by Dame Laura – demonstrates the need for the new system to be informed and led by expertise in human resources, employment law, bullying and harassment, and sexual harassment.
- c. Our clients are concerned that the heavy burden of a “screening” role under the new Scheme is proposed simply to be absorbed into the Commissioner’s existing workflow. We cannot see that the Commission proposes to allocate new resources or capacity to support the Commissioner in this work. We are concerned that this will affect the quality of decision-making as well as the efficiency of the process.
- d. We accept that the ICGS Scheme will consider a broad spectrum of cases. However, we are deeply troubled by the assumption that a large swathe of cases will fall be treated as ‘less serious’. We ask the Commission to consider that the misconduct complaints within this scheme will focus on abusive behaviour and conduct, whether in acts of bullying, harassment or sexual harassment. We urge the Commission to exercise caution in labelling this conduct on a spectrum of “seriousness.” This approach echoes the dismissiveness of old. The experience of our clients is that bullying and harassment is cumulative; a failure to deal with developing abuse gives confidence to the abuser that his conduct is acceptable and will go without sanction. Many of the women we represent report that in many cases, the longer an individual was permitted to act in an abusive manner without sanction; the more flagrant their acts of abuse became. Many of the women we represent recall how readily the House (and its staff) dismissed how they were treated as trivial. What appeared trivial to others was abuse; abuse which has affected their lives and their careers detrimentally for many years.
- e. If a complaint/grievance reaches the proposed ‘Commissioner’s assessment’ phase of the under the ICGS, it means that:
 - (i) First, the complainant has felt compelled to file a formal, evidenced complaint/grievance through the ICGS, calling out the behaviour of a Member or a staff member. Bearing in mind the time, stress, potential

stigma, and courage involved in doing so, this likely means that there has been a sustained course of conduct by a Member, an employee or employees; that the complainant has (or feels that he/she has) already exhausted more 'informal' resolution options within the workplace; and that they are filing this complaint as a last resort;

- (ii) Second, the complaint has been already been investigated by one of the independent investigators under the ICGS, and it has been determined that it is a legitimate complaint involving bullying and harassment which qualifies for assessment under the ICGS.

We consider it clearly arguable that *all* – or the vast majority – of cases that have reached this stage are therefore *inherently* 'serious' cases, which will require nuanced, informed and carefully judged decisions to be made, taking into account harm caused, the propensity of the accused to re-offend, and the likely effectiveness/proportionality of various available sanctions.

A key part of the problem with previous internal complaints schemes for employees, as we have raised previously in submissions to Dame Laura, has been their tendency to underestimate or utterly minimise the seriousness of and harm reported by employees, and to treat them as if they could be resolved in a fairly informal manner without any significant consequences for the perpetrator. This has been the case even where the behaviour that has given rise to the complaint is very harmful indeed. If the ICGS is to avoid past mistakes therefore, we submit that it should approach every case on the assumption that it *is* serious, rather than the other way round. Findings as to seriousness should only be relevant after to the final complaint outcome, with a view to determining sanctions. It should not be relevant to deciding at the outset whether the complaint is entitled to assessment by an independent panel/tribunal.

- f. We recognise that, according to the process proposed, it will be open to a complainant to appeal a finding by the Commissioner that his/her case is of a 'less serious' nature, or indeed any other aspect of the Commissioner's decision. However, this then places the onus on complainants to continue to work to escalate their complaint, and will cause unnecessary delay to the process. It would in our submission be more efficient if all complaints were simply allocated to an independent panel in the first place.

Procedure on the floor in the most serious of cases concerning Members

15. Our clients are wholly disappointed that the most serious sanctions – suspension or expulsion of abusive Members from the House - are to continue being exercised by Members only. They regret that this patently undermines any public commitment to true independence. The Commission has failed to explain why the House – rather than the independent panel/tribunal itself, or the Commissioner for Standards – should have the power to implement the suspension or expulsion of a Member.
16. We appreciate that such cases will not be typical, and we are also aware that decisions on sanctions following serious breaches of the Code of Conduct (for example) have traditionally been made by the House. The sanctions available for the most serious perpetrators of bullying and harassment must include suspension or expulsion, since this is likely to be the only way of creating a safe workplace for other members of the Parliamentary Community. We fear that if such sanctions are left to the Members of the House to determine, they will rarely (if ever) be enforced. Members have a poor record of acting decisively to punish their fellow Members. It is well-documented that allegations of bullying and harassment made against various Members made since 2017 have met with very divided responses from some Members, and that the division has been along political lines. The House can delegate or legislate for these functions to be performed by an independent body. A choice to retain a determinative (and high-profile) role for Members in sanctioning their own is simply a continuation of historic self-interest.
17. Parliamentary privilege simply cannot be pleaded as justification for the protection of Members for sanction for abuse and misconduct. As explained in our submissions to Dame Laura – berating, harassing or assaulting staff can never be covered by privilege as part of a ‘parliamentary proceeding’ or any other function of an MP. Abuse at work remains abuse at work; no matter how important privilege is to the remainder of your working day. The Commission (and ultimately, the House) must explain how parliamentary privilege can retain any integrity if it is used as a fig-leaf to protect the very few Members of the House whose misconduct puts staff and other Members at risk.
18. If decision-making as regards the potential suspension or expulsion of a Member *is* to be left to the House, which is not at all appropriate, our proposal would be that any sanction recommended is voted on either without a debate, or – which may be

preferable – having heard oral submissions from the Chair of the independent panel/tribunal that has assessed the complaint read from the ballot box. We object to the proposal that a spokesperson from the Commission is simply present to defend the integrity of the independent panel/tribunal’s decision, since this appears simply to be a tokenistic gesture towards ensuring that the interests of the complainant are represented, and to serve no actual purpose. Given that the Commission includes Members, our clients consider that the Commission itself lacks the independence necessary to represent the facts of a case and the recommendations of any independent panel/tribunal – in the context of passing judgment on another – in any neutral or independent way.

Composition of the independent panel

19. We firmly object to the proposal that the independent panel/tribunal should always include one (former) Member. We do not understand what purpose this would serve or what the advantages of this would be as part of a purportedly ‘independent’ tribunal process. Respectfully, it appears to us that there is always a risk in these circumstances of the (former) Member within the panel acting on conscious or unconscious prejudice (unduly positive or negative) towards a Member whose case he has been tasked whether based on their prior working relationship and/or their respective political parties or simply on their own experience and biases. We refer you to our submissions to Dame Lauara Cox, at paragraph 14. We re-iterate that the independent panel will be most effective if it is composed of members with the relevant expertise – in human resources and employment law - to determine these complaints fairly.

Procedure for appeals and enforcement of sanctions

20. We wish to raise two brief further issues arising from the procedure ‘flowchart’, which the Commission may be able to clarify.

21. Firstly if the Parliamentary Commissioner for Standards *does* retain a decision-making role at first instance, as per the flowchart (and we refer to our reservations at paragraphs 11 to 12 above in this regard), we assume that in order to ensure fairness complainants and respondents will have the right to appeal both the factual finding/outcome of their complaint *and* the sanction imposed if applicable. However, the flowchart does not explicitly say that this will be so. We would be

grateful if the Commission could confirm that any complainant will have right to an effective appeal against any decision of the Commissioner.

Secondly, we invite the Commission to confirm that any decisions of the independent panel/tribunal as to sanction (short of suspension or expulsion) will be directly and immediately enforced, rather than treated as recommendations that can only be enforced by the Commissioner or by the Committee on Standards.

22. We understand that the Committee on Standards is currently considering the range of specified sanctions that should be made available following up upheld complaint under ICGS, and that the present consultation does not therefore specifically address this issue. We make the general observation however that the panel *must* have the power to enforce sanctions which – even if they do not extend to suspension or exclusion – are effective in protecting House staff from further bullying, including if appropriate the removal of the accused Member from particular roles or duties. In many cases, the thinking behind such a solution may be pragmatic, rather than punitive. For example, in some cases the proportionate solution going forward will be to remove a Member from a Select Committee where he has behaved abusively towards staff or fellow Members. It is important to that the panel is given the power to take such practical steps given that – in the past – the only ‘solution’ often proposed by the House in such cases would be the circulation of the staff member who has been abused to different Committees or roles ‘for their own protection’, despite the obvious hindrance to the latter’s career, and the fact that the accused Member is then free to continue abusing other staff with impunity.

Concluding comments

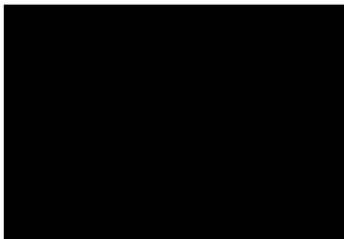
23. The consultation document and the accompanying flowchart repeatedly indicate that ‘less serious’ cases are anticipated to make up the majority of complaints received; that early resolution is considered to be desirable, and indeed the norm; and that cases leading to possible suspension or expulsion are expected to be the exception. It is not clear on what basis the Commission has made this assumption.
24. If the new scheme is to instil confidence, it is essential that it approaches all cases on the assumption that any complaint of bullying and harassment is serious; that any complaint that has progressed through the ICGS is serious, and that sanctions imposed must be robust, with prevention and redress in mind. It is essential that there is no encouragement or incentive for investigators or decision-makers to

'wrap up' all but the most obviously serious cases quickly. Respectfully, the House's track record to date in this regard is demonstrably poor.

25. The use of this language – against a track record which saw the House routinely fail its staff – creates suspicion that the new system will continue to be dismissive, self-serving and “more of the same”. It undermines the confidence of those subject to bullying and harassment in the past that the House is committed to change.
26. There is nothing in Dame Laura's report – or in the revelations of MP misconduct which preceded it – which should give the Commission such confidence that 'less serious' cases will be the norm. Much of the bullying and harassment that staff and former staff members have confidentially reported to date, as reported by Dame Laura, is of a serious nature, and would not be tolerated in most workplaces. If the system proposed under the ICGS works, we would of course hope that the number of 'more serious' cases will decrease over time. However, for now, it is unreasonable to expect that an informal or 'restorative justice' approach, or early resolution, will be an appropriate response to allegations of persistent bullying and harassment, in a workplace previously inundated with such allegations.

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS? Yes
- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report? My preference would be without debate. I would not trust Member interventions in the process. The point of being independent, is that the entire process and ultimate decision is independent.
- Should the independent expert panel include a former Member? Provided that they are deemed to be suitably independent, impartial and not able to be influenced by existing members, political parties etc.

Best wishes,



| Parliamentary Digital Service

[REDACTED] | [REDACTED]@parliament.uk

Submission from [REDACTED]

Consultation response from Members....

From: [REDACTED]@parliament.uk>

Sent: 10 February 2020 19:41

To: Communications <Communications@parliament.uk>

Subject: RE: Consultation: Proposals for an independent complaints process

Thank you for your email. I would like to respond to the three core points you have raised below:

1. I do agree with the proposed establishment of an independent panel of experts.
2. I do not think that the process of sanctioning should be debated on the floor. It too readily allows the process to be one of political point scoring. The process of adjudicating and deciding upon sanction should be conducted independently.
3. I don't think a former member should sit on the panel because of the risk of bias (or at least the appearance of bias). I am of the view that the services of an independent employment law barrister or tribunal judge (perhaps retired) should be obtained particularly if Sanction a likely outcome.

Best wishes

[REDACTED]

For consideration

From: [REDACTED]@parliament.uk>

Sent: 10 February 2020 19:46

To: Communications <Communications@parliament.uk>

Subject: RE: Consultation: Proposals for an independent complaints process

[REDACTED]

Submission from [REDACTED]

Hello,

Thank you for the opportunity to comment on the proposals to implement Cox's third recommendation.

I am supportive of the "preferred option". That said, I do not believe the independent expert panel should include a former Member. I do not believe this would be in the spirit of Cox's third recommendation. You can be an expert in "parliamentary context" without needing to have been a Member.

Very best,

[REDACTED]

[REDACTED]
Team Services, Chamber and Committees Team

Submission from 

Thank you for the opportunity of responding to the Consultation.

My response is as follows:

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes, I do agree. It does need to be Independent but it also needs teeth. This must not be a tick box exercise. The IGCS does need to have some strength behind it.

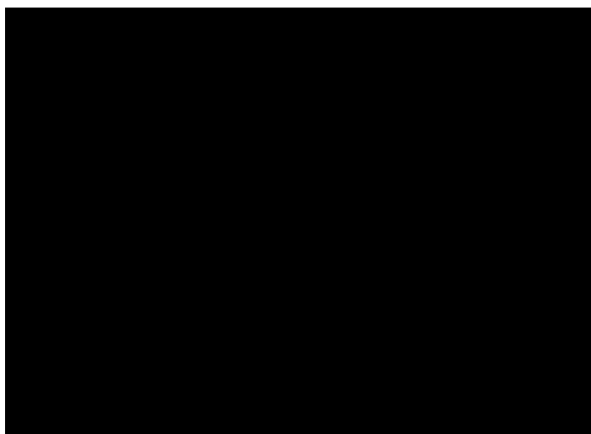
- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

I don't think there should be a debate. There will have to be an announcement to inform the House but that is where it should end.

- Should the independent expert panel include a former Member?

I think the panel could possibly include a former Member, but I also think it should have former staff who have had experience in this. I am happy to assist in anyway and would welcome further opportunity to discuss this. It is vitally important that the Panel is made up of a mix of people.

Many thanks for giving me the opportunity to contribute.



Submission from [REDACTED]

Good morning,

Please find my response to the consultation below

- 1) I agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards.
- 2) The question should be decided without debate
- 3) The independent panel should include former Members of the current governing and current lead Opposition party.

I look forward to seeing it progress,

Thanks for keeping the staff involved.



Tel: [REDACTED]

For information about how this office uses personal data please see our privacy notice at:



Submission from [REDACTED]

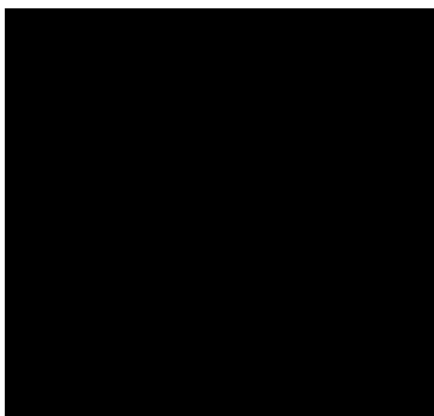
Dear Commissioner

Please find below my responses to the House of Commons Independent Complaints Process Consultation question:

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?
- Yes, however I would prefer if all cases were judged for seriousness from the outset by an independent panel rather than the PCS making that decision
-
- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor?
-
- Should the question be decided without debate?
 - Yes
 -
- Should the question be decided with debate but with a Commission member present to speak to the report?
- I don't believe the panel decision should not be debated at all on the Floor – in line with other modern working practises in which disciplinary procedures are brought about without public debate
-
- Should the independent expert panel include a former Member?

No, however I would recommend that a representative from a Member's staff body is included on the panel (MAPSA and Unite).

Kind regards



Tel: [REDACTED]

Submission from [REDACTED]

From: [REDACTED]@parliament.uk>

Sent: 10 February 2020 22:04

To: Communications <Communications@parliament.uk>

Subject: RE: Consultation: Proposals for an independent complaints process

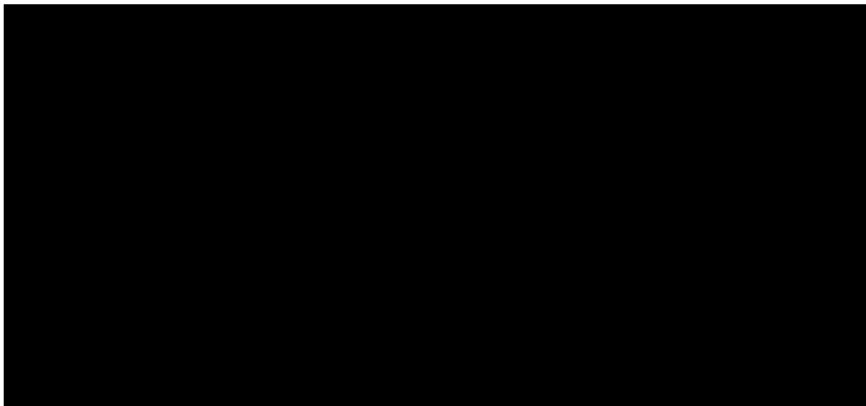
Thanks

I definitely disagree with the option of a panel of experts.

MPs are elected, they must be judged by those with the democratic accountability to do so



Please Give your Full address on each and every Item of Correspondence



Submission to [REDACTED]

Hello, House of Commons Commission

I have a couple of quick thoughts, which I hope might be helpful for you:

- I think that it's a great idea to have an independent panel of experts, rather than the Standards Committee, for this purpose;
- It seems more appropriate that the sanction or expulsion would be implemented without debate on the Floor of the House. It might seem that the decision of the panel, and their authority to make decisions is being called into question if this were to happen. If the panel of experts has made a decision, it might be considered that no further discussion is needed, and no further pain caused to the person who brought the complaint by prolonging the process. It might also seem to invalidate the idea of removing MPs from the equation;
- If the former MP also is an expert, including a former MP on the panel may not pose a problem. On the other hand, given the preference for removing MPs from proceedings, it could be argued that there's no need to include former MPs. Hopefully, there's plenty of expertise to be drawn on for the panel, without involving anyone who was or is an MP.

I hope that this all makes some kind of sense!

Kindest regards,

[REDACTED]

Petitions Committee, House of Commons

E: Petitionscommittee@parliament.uk W: www.parliament.uk/petitions

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Supporting a thriving parliamentary democracy

Submission from [REDACTED]

Please see below my response to the public consultation on the third recommendation of the Laura Cox Review.

I am submitting this as a former MPs staff member. While I myself did not experience any bullying or harassment a huge number of colleagues and friends did and the prospect of an independent tribunal is an extremely welcome one.

Questions to be decided:

Do you agree with the preferred option of an independent panel of experts?

I agree with this completely. These complaints must be examined by experts in the area who are completely independent of Parliament and the MPs.

Procedure on the floor

In such cases that the Independent Tribunal decides on sanctions of suspension or expulsion, where a complaint has been upheld, other MPs should have no say and should not be the ones to decide on whether the sanction is carried through.

The House should not debate the decision as it risks the repetition of the Lord Lester case when Lords overturned the sanction of an upheld complaint. Once again this leaves the complainant at a disadvantage and does not address the power imbalance which is the cause of most complaints in the first place.

Further, a debate in the House is completely one-sided. The complainant has no input or say in what goes into Hansard about them and will allow doubts on evidence to become a matter of record despite the complaint having been upheld. MPs often have a background in law or have much better access to high quality lawyers, which the complainant may not. This again tips the balance in favour of the MP.

MPs should submit totally to the new system, as staff will have to do. In the case that the complaint is upheld and sanctions are given by the independent tribunal MPs should not have the opportunity for a second and ultimate right of appeal.

Should the independent expert panel include a former member?

Absolutely not. While the majority of MPs are not bullies and do not harass their staff, there must be no place for MPs, former MPs or any sort of parliamentarian on the panel. If they are allowed a place this reinforces the view that MPs are looking out for their own and will take away from the independence and integrity of the panel.

The former MP is very likely to have a professional or even personal relationship with the MP in question and therefore undermines the process. It would be like a member of a jury being friends with the defendant in a court case.

Many thanks,



Submission from [REDACTED]

1. I agree that an independent panel of experts. Which means NO MPs, current or past. It is my experience that they all stick together and will just stonewall any complaint.
2. Without debate
3. No former MPs on the panel – please see my first answer.

Thank you!



House of Commons

London

SW1A 0AA

020 7219 [REDACTED]



In line with data protection regulations, this office processes constituents' data for casework and policy query purposes under the lawful basis of public task. In instances where this lawful basis is not sufficient and explicit consent is required, a member of the office will get in touch with you to establish your consent. Data will be processed only to the extent to which it is necessary to achieve the stated purposes of assisting with casework and policy queries. Your information will be held for the time of my term in office.

Submission from 

Dear Commission,

Thank you for the opportunity to provide feedback on the proposed Independent Complaints Process. Overall they appear to make sense. However I do have concerns in situation where the complainant had the complaint they made referred by the PCS to the ICP. Or where a decision by the PCS is appealed by the Member being complained about. In these two cases would the complainant have to provide evidence in person to the three person panel. If so that could be daunting for many or in some cases could put them off from continuing the process. The Commission may wish to clarify if this would be the case, or put in place arrangements where that evidence could be put to a smaller panel/individual subject specialist and be supported at no cost to the complainant through that process.

In terms of the two areas specific areas you asked for feedback.

House asked to implement sanctions. I think it should be decided without debate but with a Commission member present to speak to the report. This is a combination of both suggestions. Allowing debate even with the Speaker controlling the debate could lead to the naming of the complainant or facts/alleged facts being raised that weren't part of the complainant and could favour the Member being complained about. The naming of a complainant even in the Chamber should itself be something the House or PCS consider a breach of our policies and automatically followed up.

Should the independent expert panel include a former Member? I think this would be un-wise, it could lead to challenges to its independence. Real or tenuous links made between the former Member (either House) and the Member being complained about could be raised by the media or others that show favour or disfavour between to two individuals. I would have thought it's possible to find the right expertise required without having to have former Members within the ICP.

Thanks again for the opportunity to feedback and if you wish me to clarify any of my points I am happy to do so.

Kind regards,



Submission from 

Please see below my response to the public consultation on the third recommendation of the Laura Cox Review. Cox III.

I am a current staff member working across both Houses of Parliament.

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes. Most definitely. The complaints should be handled from those who are independent from Parliamentarians.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

I do not think it is appropriate that any part of the process is followed on the Floor. This will give the process unnecessary media attention, the complainants will have no right of reply or for their voice to be heard, and yet MPs and their colleagues will be able to freely air their thoughts under Parliamentary immunity. It is not suitable for any part of the process to go to the Floor.

Should the independent expert panel include a former Member?

No. This would be totally inappropriate. Many former Members have strong loyalties to colleagues, parties, and other individuals. They could easily be biased as a result of these loyalties and as a result of their experiences and perspective. Given that the majority of former members also failed to take suitable action or draw sufficient attention to the shortcomings of the complaint process, I think the inclusion of a former Member would undermine trust in the new processes.

Submission from 

Dear Sir,

My comments based on working for MPs for 12 years are as follows (in blue):

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

I would state that it is essential that an independent panel is put in place rather than the Committee on Standards.

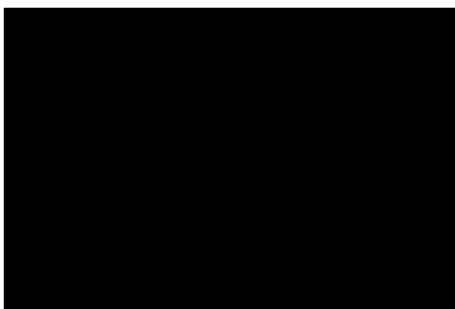
- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

The Independent Panel is the final arbitrator in respect of the case, their decision should be a 'rubber stamp' by the floor. There should be no debate in my view.

- Should the independent expert panel include a former Member?

I would think this would be a good move.

Kind regards,



Submission from [REDACTED]

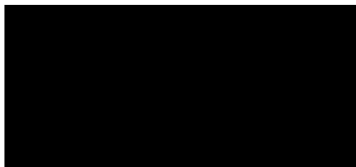
To whom it may concern,

Please find my views on the questions proposed:

- Yes, I strongly agree with the establishment of an independent panel of experts to replace the Committee on Standards.
- In the sanction of suspension question; the panel should be able to decide this without debate...that is the purpose of the panel. To make a decision independently.
- Yes, I believe the panel should include a former member but not someone who may have a conflict of interest.

Thank you so much for the opportunity to contribute to this much needed consultation for change. I have worked in the House of Commons, IPSA and now a Party for the past 13 years and this has been a long time coming in terms of a safe place where grievances can be dealt with appropriately and professionally.

All the best



Liberal Democrats

London



Submission from [REDACTED]

Dear HOC Commission,

Thank you for sharing this final consultation with staff of the house. I have a few comments regarding the bullet points at the end:

Yes, I do agree with the Commission's preferred option of establishing an independent panel to replace Committee on Standards. I have no objection with a former MP being on the panel or even a present one, but I would say that if there is going to be any form of member representation then there would need to be a balance, with perhaps a representative from the electoral commission or a body which attempts to represent voters. MPs have a place in Parliament because they are elected and I think if ever there were complaints brought against them, the voters should have a voice.

I think once the panel have made a ruling/decision, it should stand and not be overturned by a debate in the House, so I would support that the question should be decided without debate. I think if you were to include MP representation on the panel, this action would have more chance of being respected.

Once again thank you for sharing this with staff and keeping us well informed throughout this process.

Kind Regards

[REDACTED]

+44 (0)20 7219 [REDACTED]

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UK Parliament, Westminster, London SW1A 0AA
parliament.uk



Submission from [REDACTED]

Dear Consultation team,

Please see below for my comments towards the Consultation paper, Cox III.

First off, I do feel that the information provided as part of this consultation process is, in parts, rather vague. For example, on the third page of the paper, under the heading of *Other Options*, we are informed that the Commission were presented with four other options for key decision making, within an updated **IGCS** process. However, the document is unclear about how the Parliamentary Commissioner's Panel differs from the preferred option of an Independent Expert Panel. I feel it is quite difficult to contribute considered opinions, on whether the Commission is heading in the right direction, based on the information provided.

It's clear which direction the Commission wish to take in this process, which leads me to question the usefulness and value of this 'consultation' process?

These points aside, I will still contribute a few thoughts.

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?
 - Please see above
- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?
 - I'm unsure whether the vote under discussion in this question is an either or vote (one sanction or the other), or if the vote is whether a sanction be imposed at all. I'm concerned that, if it is the latter point, including a debate on the floor of the House, ahead of any vote, would undermine the independent process. If an independent panel has recommended a sanction be imposed, allowing further debate around that recommendation could be seen to devalue the expert opinions already given. Would these debates be televised? If so, wouldn't that leave the way open for so-minded Members to use this as a point scoring exercise? I'm assuming Members will get the opportunity to read the panel's findings ahead of any vote. I'm worried that subsequent debate might unfairly skew the process one way or another.
- Should the independent expert panel include a former Member?
 - Why? Parliament as a workplace is similar, in many ways, to other large organisations. Parliament has very clear guidance around good working practices, acceptable levels of conduct, respect policies and expected levels of behaviour. The building is unique but attitudes around how we treat colleagues and staff should not

be. If a former Member were to be included, would there also be the requirement that they had other relevant experience, in a similar vein as the other panel Members?

Yours sincerely

A solid black rectangular redaction box covering the signature area.

Submission from [REDACTED]

Re consultation

Please acknowledge and let me know if you need further information

In order that this is dealt with fully International Standards Organisation standards need to be used

Thanks

[REDACTED]

NOTE FROM [REDACTED], GOVERNANCE OFFICE:

THIS REALLY IS [REDACTED]'S SUBMISSION – I EMAILED HIM TO CHECK THAT HE HADN'T LEFT OFF AN ATTACHMENT FROM HIS EMAIL, BUT HE CONFIRMED THAT HIS SUBMISSION IS JUST THESE FEW WORDS ABOVE.

Submission from [REDACTED]

Please find below my opinion on the questions asked:

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes

- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

The risk of any innocent party being named in the Chamber needs to be avoided so the first option - put without debate – is preferable

- Should the independent expert panel include a former Member?

If it does it should include a former member of House staff and possibly Members staff also – Members do not have exclusive knowledge of the parliamentary context. Otherwise I suggest that another independent person with knowledge of the Parliamentary context is part of the panel instead.

Kind regards

[REDACTED]

(I work odd hours but do not expect you to)

[REDACTED]

Governance & Central Services

+44 (0)20 7219 [REDACTED]

Text relay: 18001 020 7219 [REDACTED]
UK Parliament, Westminster, London SW1A 0AA
parliament.uk

Submission from [REDACTED]

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

YES I agree with this option. It is the only acceptable option

- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

The question should be decided without debate. In no other workplace would it be acceptable to have a complaint investigated via a professional and confidential process only for the decision to be put to a random group of people to express an opinion based on no detailed knowledge and to be able to vote on the decision. To do so would undermine everything that has gone before. The House talks a lot about culture change – what sort of culture do you think having MPs debate a complaint would demonstrate?

Precedent has demonstrated (Lord Lester case/Speaker Bercow's case at Standards and Privileges Committee) that MPs cannot be impartial and will revert to their self-serving interests across Party lines when the question involves staff complaints against MPs.

If the question is subject to a debate I suspect that complaints will not be lodged. The staff concerned would be horrified by the risk of MPs expressing opinions and breaching their confidentiality using parliamentary privilege.

- Should the independent expert panel include a former Member?

NO. I am at a loss to know what purpose this would serve. It risks undermining the impartial and balanced make-up of the panel and would undermine confidence in the process. Even if the person selected behaved impeccably, the perception would be that they are there to defend MPs' interests.

[REDACTED]

[REDACTED]@parliament.uk

44 (0)20 7219 [REDACTED]

Text relay: 18001 020 7219 [REDACTED]
commonslibrary.parliament.uk

Submission from [REDACTED]

To Whom it may concern

Please see my responses to the questions below:

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?
- **YES**
-
- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor?
- Should the question be decided without debate?
- **YES – it should be up to the independent panel to decide the seriousness of the situation and sanction.**
- Should the question be decided with debate but with a Commission member present to speak to the report?
- **NO – it needs to remain independent so should not be debated.**
- Should the independent expert panel include a former Member?
- **NO – it needs to be completely independent.**

Kind Regards,

[REDACTED]

+44 (0)20 7219 [REDACTED]

Text relay: 18001 020 7219 [REDACTED]

Third floor, 7 Millbank, UK Parliament, London, SW1P 3JA
parliament.uk



Submission from [REDACTED]

To Whom it may concern

Please see my responses to the questions below:

1. Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes

2. In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor?

Should the question be decided without debate?

Yes – it should be the decision of an independent panel to decide the seriousness of the situation and sanction.

3. Should the question be decided with debate but with a Commission member present to speak to the report?

No – decision should remain an independent process.

4. Should the independent expert panel include a former Member?

No – decision should remain an independent process.

Kind Regards,

[REDACTED]

[REDACTED]

Northern Estate Programme

0207 219 [REDACTED]

Submission from [REDACTED]

Cox III: Consultation Paper response:

Question	Response	Comment
<ul style="list-style-type: none">Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?	Yes, I agree with the establishing of an independent panel.	
<ul style="list-style-type: none">In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor?? <p>Should the question be decided without debate?</p>	Yes, the question should be decided without debate.	
<p>Should the question be decided with debate but with a Commission member present to speak to the report</p>	<p>No, there should be no debate.</p> <p>Yes, the commission member/s should speak to the report.</p>	<p>Any debate by MPs to decide the seriousness of the situation and sanction would be a conflict of interest. MPs should not be enabled to defend behaviour which is inappropriate and unacceptable in the wider community.</p> <p>Furthermore if an MP offends a second time they should be reported to the police.</p>
<ul style="list-style-type: none">Should the independent expert panel include a former Member?	No, definitely no MP or former MP to be included in the independent panel.	

[REDACTED] Northern Estate Programme

House of Commons, 7 Millbank, London SW1P 3JA

Submission from [REDACTED]

Good afternoon,

I'm writing to provide my response to the Commission's proposed new model for handling complaints.

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

I agree with the Commission's preferred option of establishing an independent panel of experts.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

I do not agree that the House should be the only body to determine the expulsion or suspension of a Member – especially regarding the conduct of a Member towards staff. This is due to the structures of power which encourages Members to support one another. The relations amongst this cohort is one of the contributing factors towards the current issues and the reason why independent bodies are required.

If the House wishes to support the recommendations of the independent panel, then this should be welcomed. However, they should not be the decision maker on such a matter. Staff are not subject to a trial by their peers, so neither should Members.

If it is decided that the House's decision should be required, all efforts should be made to make this a rubberstamping role. A debate should be avoided due to the impact this may have on affected staff. A debate should only take place if there is an intention for the House to deviate from the independent panel's recommendations.

Should the independent expert panel include a former Member?

Yes. Current Members and former Members should be excluded from the process. Former Members still have connections to current Members (especially when they are granted a Parliamentary pass) and their political parties. They cannot be regarded as neutral. The panel should be made of people

who are closer to the accuser (staff) than the accused (Members). I would hope that trade union experts will play a key role in the panel.

Thanks,

[Redacted]

Senior Parliamentary Assistant

[Redacted]

Tel: [Redacted]

Submission from [REDACTED]

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes. But the process around who is on this panel, terms of reference, breath of experience etc needs to be clarified as soon as possible. There should be a cross over with the Committee on Standards in Public Life (CSPL), and no panellist should have any political role or affiliation or be employed by the government.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

There should be a debate, with the Commission spokesperson there to defend the integrity of the process. The Member in question should not be able to speak in the debate, to prevent them from talking directly about the complainant. Any naming of the complainant should be ruled as disorderly by the Speaker and erased from the record.

Should the independent expert panel include a former Member?

No, they would be open to accusations of political bias.

Submission from 

Cox III: Consultation

1. The Cox report was clear: Members of Parliament should “play no part” in the determination of complaints of bullying, harassment or sexual misconduct.
2. Under the preferred option chosen by the House of Commons Commission, it is proposed that the House of Commons would decide on whether to approve the sanction recommended by an independent expert panel. This therefore fails to meet the requirements of Cox’s third recommendation, because it does not remove Members of Parliament from the process. The Commission should cease suggesting that this proposal does meet Cox’s recommendation. It would be better for the Commission’s credibility to instead explain why it is not desirable to remove Members from the process. This would be preferable to continuing to argue something that is clearly not true.
3. **Independent panel:** I agree with the Commission’s preferred option of establishing an independent panel of experts. However, I do not agree that lay members of the Standards Committee are perceived as being insufficiently independent, and I believe they should be informed that applications from them to join the independent panel are welcome.
4. **Procedure on the Floor:** I believe the independent panel should make the final decision, without any input from the House of Commons. However, it seems likely that the House will decide on the panel’s recommendation. In that case, the questions on agreeing the report and the panel’s recommendation should be agreed without debate. A debate would simply put the victim through further trauma, something that should be avoided at all costs. Furthermore, a debate would increase the role played by members in this process. As I have indicated above, their role is already too great.
5. **Composition of the independent panel:** the panel should not include a former Member, as this will be perceived as an attempt to sidestep Cox’s third recommendation.


House of Commons

Tel: 0207 219 

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Joint response from the CCT Cultural Transformation Group

The CCT Cultural Transformation Group warmly welcomes the Commission's consultation on Dame Laura Cox's recommendation for an entirely independent process for determining complaints of bullying, harassment or sexual harassment against Members of Parliament, in which Members of Parliament play no part.

The Group has discussed the consultation and is unanimous in making the following response to the consultation:

- **Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?**

The Group supports the Commission's preferred option of an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS.

- **In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?**

The Group believes that Members should not play any role in the *investigation* of a complaint. We accept that in the case of democratically elected representatives, procedures will need to be carefully developed to provide for the House to approve a *sanction* of suspension or expulsion of a Member. However, we believe that this should take place without a debate or any other oral intervention. A debate would wholly undermine fair trial principles, both for complainants and respondents, potentially breaching Article 6 of the Human Rights Act, and could contribute to further harm and a complainant being revictimised.

To put this in practical terms, it could mean a person who has been bullied or sexually assaulted (for example) having their distressing experience debated by politicians, who might split along party political lines, in the public glare. This would not only cause further distress and humiliation, but would likely increase the media interest and risk of identification of the complainant. The criminal and civil legal systems have long had processes in place to protect complainants from being retraumatised and revictimised through the process and Parliament should be aiming for high standards in this regard. A public debate would not only be damaging for the parties involved, but for the reputation of Parliament and credibility in the complaints process, as demonstrated by the handling of the Lord Lester case.

It is difficult to see what a debate would add to the process, given that a fair and independent investigation would already have been carried out. Members would be limited to endorsing the investigation, which would seem unnecessary, or questioning its findings or recommendations,

which would call into question the validity of the whole process. Anyone who disagrees with the panel's recommended sanction ultimately still has the option of voting against it.

Furthermore, we would like clarification about what information, i.e. details of the case, the House will be given in order to make an informed decision about a sanction of suspension or expulsion. The principle of transparency is vital, and this needs to be balanced with the rights of the parties, for example the complainant's right to privacy, dignity and anonymity.

Our Group is also concerned about the emphasis that the consultation places on cases being concluded at an early stage and feel there may be a conflation between the *severity* and the *number* of cases that the independent panel could hear. Whilst it may be the case in practice that the panel would hear a small number of cases, in emphasising early resolution the consultation unintentionally sends a message to potential complainants that their case could be prejudged as not serious. The former Respect policy was criticised for similar reasons (amongst others). It also sends a message to potential respondents that their alleged behaviour will not be dealt with seriously.

At present, the House of Commons does not have robust data on the number of perpetrators of bullying, harassment or sexual misconduct among parliamentarians (or the wider parliamentary community), nor of the range of behaviours. This data is not currently collected, other than through the ICGS which only collects cases reported to the helpline or going through a complaints process, so it is not possible to have certainty about the number or type of cases if all such behaviour was reported. Indeed, the important activity around communicating House values and the ICGS could lead to an increase in complaints, including those meriting a more serious sanction. The consultation document states that the PCS can only apply a limited number of sanctions. This could mean that the independent panel heard a greater, rather than smaller number of cases than anticipated.

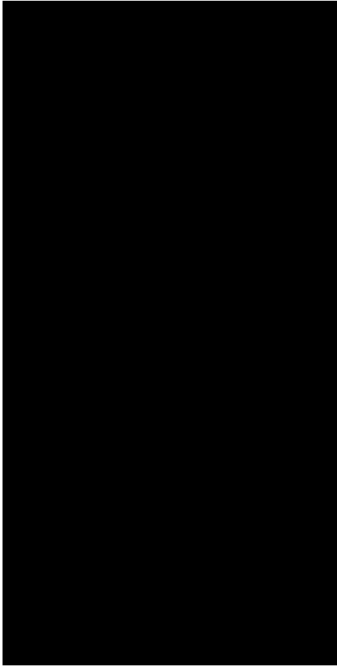
- **Should the independent expert panel include a former Member?**

The Group holds the firm view that the independent expert panel should not include a former Member. There are a number of reasons for this:

- Including a former Member, or drawing on a former Member on an ad hoc basis, would mean that the panel was not, by its very nature, independent. Dame Laura Cox explicitly stated that the process should not include Members for this reason;
- We believe that taking this approach would undermine the credibility and impartiality of the expert panel;
- Members of Parliament are not a regulated profession such as law or medicine where there is a clear rationale for including the profession's expertise. We believe the expert panel is more comparable to an employment tribunal where the panel does not require expertise from the sector it is hearing about;
- Moreover, one former Member is unlikely to be representative of all Members, whose experiences will vary according to party and numerous other factors.

This does not, of course, preclude the panel from taking evidence from a Member of Parliament as a witness in the case. Indeed, if the panel felt that evidence about the parliamentary context was a crucial element of determining a particular case, they could draw on evidence from as many Members as they needed to.

CCT Cultural Transformation Group



Submission from [REDACTED]

From: [REDACTED]@parliament.uk>

Sent: Thursday, March 5, 2020 3:33:29 PM

To: [REDACTED]@parliament.uk>

Subject: Cox Report - independent complaints process

Dear [REDACTED],

I understand that you are receiving submissions to the consultation pertaining to the above.

[REDACTED]

However, I would like to make it clear that Labour supports an independent system for dealing with complaints. Nevertheless, independence does not guarantee neutrality and objectivity. Someone who is nominally independent may have a particular agenda. It has been widely suggested that perhaps someone with a judicial background would go some way to ensuring impartiality.

I would suggest that there should be some form of training given to anyone who adjudicates on the process and I wonder if there may be some form of consultation on attracting people who are genuinely disinterested?

Yours sincerely,

[REDACTED]

Submission from TUS

INDEPENDENCE CONSULTATION – TUS SUBMISSION

The Commission's decision in February that its preferred choice for implementing Dame Laura Cox's third recommendation – on the independence of the ICGS – was the independent panel of experts was welcomed by the TUS. The fact that this option was also backed by the House ICGS staff team and the Parliamentary Commissioner for Standards, and was endorsed by Dame Laura herself, has added to the credibility of the preferred option, which will be crucial in building the trust and confidence of staff and others who will use it.

However, it is vital that the House does not undo the positive steps taken by the Commission by attempting to dilute the very independence of the Panel, which – as all the stakeholders above, including Dame Laura – recognised as its most important component.

With that in mind, the TUS wishes specifically to refer to two questions in the consultation, and our responses can be found below.

Consultation Questions

Do you agree with the Commission's preferred option of establishing an independent panel of experts (Parliamentary Tribunal) to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes, our favoured option is the Parliamentary Tribunal. Fundamentally this is the independent system for which staff have been calling for years. Additional benefits of the Parliamentary Tribunal are that it is easy to understand and it brings in employment expertise (which is reflected in the name). It will have the trust and confidence of staff.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a Member following a panel determination, what process should be followed on the floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

It is our strong belief that the House of Commons should replicate the House of Lords and agree to the report findings and sanction without debate. If MPs are allowed to debate any aspect of the complaint, they will be playing a part in the process, which – to repeat – would dilute the full independence of the panel. If MPs retain the ability to debate the findings of the report or the fairness of the sanction on the Floor of the House, staff will feel that MPs are giving themselves a second right of appeal beyond that detailed in the procedure. This is asymmetric and a breach of natural justice – why in principle should one party to an investigatory procedure have one more opportunity to revisit the complaint than the other? In addition, this could effectively render the independence of the investigation and determination of the complaint meaningless.

In the House of Lords, decisions are agreed without debate, as agreed by Standing Order. The House of Commons should follow the Lords' example. If so, MPs could – in exceptional circumstances – seek to overturn that Standing Order in order to debate the report.

The decision to expel or suspend an MP would only be made in the most serious cases. The complaint would have been upheld by the independent Parliamentary Tribunal and any appeal against it would have failed. We would ask – what value could be added by having a debate? There is already a right of appeal in the process, available to both the complainant and the MP. Surely the only purpose of a debate would be to offer MPs a second, and ultimate, right of appeal that would not be available to the complainant. As we state above, this is a breach of natural justice.

Conversely, there would be considerable downsides to MPs giving themselves the right to debate. There will be a great deal of concern amongst staff that, even if the determination and sanction were upheld, Parliamentarians could still reveal identifying information about the complainant or witnesses; reveal personal circumstances of the complainant; or cast doubt upon the facts found in the report, all unchallenged and all while protected under privilege. The threat of this may be enough to intimidate some staff not to put in their complaint at all. If staff are deterred from raising their complaints, bad behaviour cannot be dealt with and the culture of acquiescence, silence and deference that Dame Laura found in her inquiry will be left to flourish.

A fortnight after Dame Laura Cox's report was published, the House of Lords voted to overturn the decision by its own Commissioner for Standards to suspend Lord Lester over sexual harassment claims. This vote took place in the full glare of the press after Dame Laura's inquiry. Naomi Ellenbogen QC described this as having a "chilling effect". She was told on numerous occasions that:

any earlier belief that a complaint to the Commissioner for Standards might be worth pursuing had vanished: whatever the independent Commissioner's recommendation to the relevant committee and the committee's recommendation to the House, ultimately powerful members would protect their powerful friends, at the expense of the complainant, whose public humiliation would be immortalised in Hansard. Making a complaint was not only pointless; it was devastating, both personally and professionally.^[1]

House of Commons staff must have confidence that, faced with a similar circumstance, MPs would not do exactly what the Lords did in the Lord Lester case. We would ask the House Commission what they would do if a debate took place and the House voted to overturn or reject the report from the panel.

- What would happen to the staff member's complaint? That complaint – made by one of your employees, of course – would have been upheld following an initial finding and an appeal. If the recommended sanction was expulsion or suspension from the House, the complaint would be extremely serious and/or about a repeat offender. How would the Commission, as the employer, respond? What would the next steps be? It cannot be an option to say that in that scenario the complaint would be left without a sanction.
- What measures would the Commission take to protect its employees from being bullied, harassed or sexually harassed in the future by that MP? Are there any issues of liability, or in terms of your duty of care as an employer? The Commission would be aware of the MP's behaviour; there would have been an upheld complaint which was deemed so serious that it warranted suspension or recall.

- Would the Commission consider a failure to have a functioning bullying, harassment and sexual harassment policy a breach of its duty of care to its employees? What measures would the Commission take to ensure that the policy did not fail for subsequent complaints?
- If MPs, in the course of a debate, were to “re-victimise” the complainant, would that be considered in itself an act of bullying and/or harassment?

Should the independent expert panel (Parliamentary Tribunal) include a former Member?

No. It is our strong belief that there should not be a former Member on the Parliamentary Tribunal. Staff would simply not consider a former MP to be independent. Such a decision would bring the entire tribunal’s independence into question. It is inconceivable that a former MP would not still have party political loyalties; indeed, we believe that some MPs have loyalties to one another – even across party lines – before staff. In her report Dame Laura said that there was a “general reluctance of Members to judge the misconduct of other Members, or even to assist in the investigations by others into such misconduct.”

The perception by staff that a former MP would not be independent would also have consequences for the credibility of the Parliamentary Tribunal’s decision-making and authority. If a sanction had been weakened, or an MP’s appeal upheld, the assumption would be that this was due to the former MP’s influence.

A former MP would not add value to the Parliamentary Tribunal. Tribunal members are supposed to bring expertise in employment, bullying and harassment, and sexual harassment. A former MP will be seen by staff as someone who is there to make excuses about the unique status of an MP’s job rather than to enforce normal workplace behaviours. The Parliamentary Tribunal is quite different from professional regulators such as the General Medical Council (GMC) or the Nurses Medical Council (NMC), which will have a member of their profession on panels for professional misconduct hearings. In this case, the role of the professional expert is to give clinical or medical expertise, to understand whether the individual has committed a medical or clinical error and to recommend whether they are no longer deemed fit to practice in that profession. The Parliamentary Tribunal is clearly more comparable to disciplinary procedures in an employment setting than to a body carrying out regulatory investigations.

Additional comments

Sanctions

Currently under the ICGS the only available sanctions are an apology and training, or, for more serious cases, suspension. As the unions have long argued, there must be intermediate sanctions in the form of warnings. This would allow the Parliamentary Tribunal to take a more considered approach so that they only need to recommend suspension in the most serious and egregious cases.

Warnings are particularly important when dealing with repeat offenders; the use of timed warnings, the same as one may experience in an employment environment, allow for the Tribunal to sanction repeat offenders with progressively worse sanctions. For example, if an MP is on a 12-month warning and has a complaint made about them during that time, the Tribunal can issue a more serious sanction if that complaint is upheld. Also, warnings allow other sanctions to be applied – for

example, an MP on a warning should not be allowed to serve on a Select Committee or be elevated to the House of Lords.

The House of Lords

Both Houses must institute a joined-up approach across Parliament. It would be catastrophic if an individual who had multiple complaints upheld against them while a member of the House of Commons could not have sanctions applied against them – even though they continue to be on the Parliamentary Estate – because they were now a member of the House of Lords.

Past cases

Dame Laura Cox' second and third recommendations (non-recent cases and independence) depend on each other for their success. Although non-recent cases have had access to the ICGS from July 2019, it is clear that these cases need independent determination and sanctions just as much as current and future cases. Non-recent cases should be covered by the Parliamentary Tribunal, in the same way as any other case.

5 March 2020

British Psychological Society response to the House of Commons Commission

Independent Complaints Process

The British Psychological Society, incorporated by Royal Charter, is the learned and professional body for psychologists in the United Kingdom. We are a registered charity with a total membership of just over 60,000.

Under its Royal Charter, the objective of the British Psychological Society is "to promote the advancement and diffusion of the knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of members by setting up a high standard of professional education and knowledge". We are committed to providing and disseminating evidence-based expertise and advice, engaging with policy and decision makers, and promoting the highest standards in learning and teaching, professional practice and research.

The British Psychological Society is an examining body granting certificates and diplomas in specialist areas of professional applied psychology.

Publication and Queries

We are content for our response, as well as our name and address, to be made public. We are also content for the Commission to contact us in the future in relation to this inquiry.

Please direct all queries to:-

Joe Liardet, Policy Administrator (Consultations)
The British Psychological Society, 48 Princess Road East, Leicester, LE1 7DR
Email: consult@bps.org.uk Tel: 0116 252 9936

About this Response

The response was led on behalf of the Society by Andrew Baldwin, BPS Policy Advisor (Work) with contributions from Dr Madeline Carter CPsychol AFBPsS, Division of Occupational Psychology; Professor Rosalind Searle CPsychol FBPsS, Division of Occupational Psychology; Neill Thompson CPsychol, Division of Occupational Psychology.

British Psychological Society response to the House of Commons Commission

Independent Complaints Process

	<p>Do you agree with the Commission’s preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?</p>
<p>1.</p>	<p>Yes, the BPS believes this move has the potential to increase openness, transparency and understanding, leading to greater trust and belief in the system.</p> <p>Psychologists identified “investigation” as one of 11 types of workplace intervention types (Caponecchia, Branch, and Murray, 2019) but the evidence base on successful interventions in tackling bullying remains limited. For example, the four most recent reviews (Gillen et al (2017), Escartin (2016), Illing et al (2013), and Hodgins et al (2014)) have all concluded to this effect.</p> <p>Burr and Wyatt (2019) outline best practice in complaint investigation processes. They describe the integrity of the investigation as referring to:</p> <ul style="list-style-type: none"> • trustworthiness, • independence, • ethical processes • principles <p>Thompson and Catley (2019) describe individual and organisational factors that influence the perception and take up of complaint processes. It is critical that those involved in managing investigative processes are appropriate in that they are not perceived to have any conflict of interest to the parties involved.</p> <p>Consistently there is an emphasis on the need for independent panels (Illing et al, 2013; Burr and Wyatt, 2019; Thompson and Catley, 2019). Psychologists have highlighted the risk of loss of independence and the implications that this can have to effective implementation of policies (e.g. Harrington, Rayner and Warren, 2012; Woodrow and Guest, 2014).</p> <p>Thompson and Catley (2019) highlight the evidence base that complainants report the process is associated with negative emotional experiences and health consequences. Therefore, it is critical that the process is carefully planned and managed in order to try to minimise these negative effects.</p>
	<p>In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?</p>
<p>2.</p>	<p>To ensure the system is trusted, the House should have no say in what the independent panel recommends. Sanctions should be implemented irrespective of the House. This is due to three factors:</p>

- 1) Any allegation of bullying or harassment can have a detrimental effect on those accused (Jenkins et al, 2012). Follow-up interventions not involving dismissal (i.e. suspension) might include training, coaching and mentoring to improve and address negative behaviour. Consequently those sanctioned would be returning to the workplace. A public display may make this much more difficult for those sanctioned to engage in the process.
- 2) Members involved in a full debate on the floor of the House are unlikely to have had the scope to review any detailed information that an independent panel would have available to them. A debate would risk a largely surface level general discussion on bullying and harassment as a whole, rather than a debate on the specifics of the case. Basing decisions on general discussions also has the potential to politicise the process, with Members making decisions based on their own feelings, rather than the specific evidence brought to the panel.
- 3) Evidence has highlighted barriers to the reporting of bullying (Thompson and Catley, 2019; Farley, Casademunt, and Crossman, 2016). Knowing that some of the information provided could result in a debate on the floor of the House may deter targets of bullying coming forward.

If an announcement is required then the Speaker should outline the result of the case without debate. Further debate is not necessary once the panel has made a decision.

Should the independent expert panel include a former Member?

3. The inclusion of a former Member to the panel would need to be treated sensitively as there may be a risk of loss of independence (or perceived loss of independence). A number of research studies have identified that HR practitioners, who are often involved in bullying investigations, are perceived as non-independent due to their close working relationship with organisational management (e.g. Harrington, Rayner and Warren, 2012; Woodrow and Guest, 2014) and this then being a barrier to reporting of complaints.

If the Commission is interested in pursuing this idea, a consideration might be for a former Member to act as an organisational/ subject matter expert and they then could provide institutional guidance on any cases that are heard, offering important insight into institutional matters without risking damage to the independence of the panel. Their status (e.g. adviser, voting member) might be something to consider with this regard of ensuring the perception of independence.

One solution would be to co-opt an HCPC registered psychologist onto the panel. Psychologists work in a vast array of different disciplines and a substantial number have expertise in tackling workplace bullying, harassment, conflict management or workplace relations. Some combine this knowledge with experience working within the Parliamentary or political system. We believe the addition one of these experts would maintain the independence of the panel but would also bring insight on the individual, social and organisational antecedents.

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Submission from Institute for Government

We welcome the opportunity to respond to the Commission's consultation on the new system for determining bullying and harassment complaints against MPs.

Q.1 We support the Commission's preferred option of establishing an independent expert panel to replace the Committee on Standards in considering ICGS cases. From the description in the consultation document this option appears to meet the requirement of a process which is independent of MPs (subject to Q.3 below). It retains an appropriate role for the PCS but also brings in a greater range of external expertise. We particularly welcome the Commission's acknowledgement - in recommending this option - that bullying and harassment are serious HR issues which need to be determined by individuals with appropriate professional expertise and experience.

We agree it is appropriate for the PCS to retain her power to determine cases and impose sanctions up to a certain level of severity. Additionally we believe that it would be helpful for there to be a wider range of sanctions at the disposal of the PCS and the expert panel, as the PCS herself proposed in a letter to the Standards Committee (dated 2 May 2019). Sanctions should include the possibility of restricting a member's involvement in select committee work, when inappropriate behaviour is found to have taken place in a committee context.

The question of the threshold beyond which the independent expert panel becomes involved in determining sanctions will be important. We would welcome clarification on whether this will be the same as under the current system.

We would also welcome clarification regarding the proposed size of the panel, how its members will be appointed and what qualifications and experience they will be required to have (both individually and together as a panel).

Q.2 We strongly believe that the questions on agreeing the report and the recommendation from the independent expert panel on the most serious sanctions should be put to the House without debate. Even if a spokesperson from the Commission was present at a debate to speak for the integrity of the process, that would not redress the significant imbalance of allowing the respondent the final word on the complaint, with the benefit of parliamentary privilege, when the complainant, unless another member, would be silenced. This would seriously undermine the perceived fairness of the independent process, skewing it to the advantage of the respondent.

Q.3 We believe that the independent expert panel should not include a former member. This is for five reasons.

1. It would be contrary to the spirit of Laura Cox's recommendation that the House establish a system for determining complaints that is independent of MPs.
2. MPs repeatedly demonstrate their difficulty in setting aside their political allegiances and relationships when commenting in public on bullying allegations. MPs who step down or lose their seat rarely relinquish their political convictions and normally continue to maintain political relationships that could be perceived to influence their decision-making as a member of the expert panel.

3. Including a former MP on the expert panel would undermine the confidence of staff that the system was balanced and fair.
4. Few MPs are experienced in HR or employment law in the terms envisaged for the members of the expert panel. The model of the panel - as explained in the consultation document - appears to be that the panel members should be interchangeable experts who can form and reform into different panels of three. Including a former MP among their number would significantly change the character of some but not all such panels. This would introduce a risk of making their judgments appear inconsistent.
5. The consultation document makes clear that the panel will have recourse to expert advice from House staff and specialists as needed. It would presumably also be open to the panel to seek advice from members if they thought it necessary, without any member or former member being part of the panel.



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Submission from [REDACTED]

I would like to submit the following response to the consultation on the creation of an independent panel of experts. My responses are below:

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes - I agree that an independent panel should be established to replace the Committee on Standards. I would welcome the expert nature of the panel and thus the recognition of the importance of the need to build confidence among staff to ensure that ICGS cases are dealt with with professionalism, particularly in HR.

I would highlight the importance of having a transparency and clarity about the appointment process for the expert panel. This will be critical to ensuring the independence of the panel is believed in by all involved.

· In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

Without debate. We have seen previously how members have not been able to stop themselves defending other members, even without the full facts of a case before them.

Any debate would not allow a staff member the right of reply and therefore would not ensure that both sides of the case were heard in the House. Even if a Commission member were present, it would likely not be a balance debate due to the natural instinct of some members to defend their own.

· Should the independent expert panel include a former Member?

No. There is no precedent for this kind of representation on HR/tribunal type boards. It would put into question the independence of the panel.

I note there is no suggestion of an ex staff member to be included on the panel, who would arguably secure the equivalent confidence of staff (as it would be argued the ex-member secures the confidence or buy-in of members); however, I strongly believe neither would be able to be impartial and so should not be represented on the panel.

Many thanks for opening the consultation and for the efforts to find a suitable solution.

[REDACTED]
Clerk

Submission from [REDACTED]

My view is that the panel should be actually be truly independent panel. I don't think it should include those who the public have no confidence in.

To date I haven't seen anything which gives me any confidence in your new processes.

I would hope that you don't choose panel members who will threaten and intimidate and silence victims to not raise concerns and who will interfere with victims and force them to drop out of related criminal justice processes with threats and intimidation as currently happens.

As you are fully aware parliament HR diversity and Equality ([REDACTED]) is not independent of the current process. Therefore, I think the new panel should not include any members of HR in parliament to be truly independent.

As you are also aware the ISMA service which is currently run by Solace Women's Aid is not independent of either HR or parliament (although you don't want this to be known widely).

The panel should therefore also not include anyone working for the the ISMA service (Solace Women's Aid). Can you imagine victims being abused by them too on behalf of perpetrators?

As HR diversity and equality and the ISMA service (Solace Women's Aid) have worked for alleged perpetrators and worked together to threaten, intimidate and silence victims, clearly neither are suitable for an independent panel.

Neither would anyone close to parliament Diversity and Equality HR be suitable or independent such as HR from the Cabinet Office or a Government Legal Department.

I don't think the panel should include any former members. That wouldn't give me any confidence they are independent. It would make it easy for them to collude with the alleged perpetrators.

Submission from [REDACTED]

RESPONSE TO COX III: CONSULTATION PAPER FROM [REDACTED]

Background

I was a House of Commons clerk between [REDACTED] [REDACTED] as I said in my letter of resignation, I was the subject of a campaign of harassment and bullying. In despair at that time, I agreed to [REDACTED] [REDACTED] but was so affected by the failure of the House Service to support me that, by now completely exhausted, I had to leave it altogether.

[REDACTED]

Humiliating as it was, the grievance investigation report assured me that my case had been helpful in improving procedures for ensuring that inappropriate behaviour by Members was met with an appropriate response from the House Service. It was extremely painful to me to find that this was not true, and even more so to consider the possibility that, having argued that the behaviour I described in my grievance put at risk the reputation of the House, I had unwittingly suggested to the House a mechanism for rejecting complaints made by my former colleagues under the "Respect" policy.

It was a difficult decision for me to [REDACTED] [REDACTED] but I am glad I did because without it nothing would have changed to protect staff of the House or the House as an institution. Sir David Natzler told the *House Magazine* that "We didn't actually need the Newsnight programme" because of the House's "own staff surveys".¹ [REDACTED]

Even with the weight of evidence collated and analysed by Dame Laura Cox in the inquiry commissioned by the House under pressure from *Newsnight's* reporting, further media attention and action by former and current parliamentary staff and their representatives has been required at every turn to ensure that Dame Laura's recommendations are fully implemented.

The third recommendation, which sought to make the procedure for determining complaints "an entirely independent process, in which Members of Parliament will play no part", is arguably the most important protection for staff and for the health

¹ Sebastian Whale, "Sir David Natzler: what a curious animal the House of Commons is," *The House*, 21 February 2019)

and safeguard for the health and reputation of the House as an institution in the long term. For this reason, the proposal to implement it merits as much scrutiny as possible now.

Questions to be decided

1. Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the ICGS?

I agree that complaints against MPs under the ICGS should be determined by an external body that is entirely independent. MPs' interests are unavoidably bound up with each other as they are connected not only by personal relationships and political affiliations but also as members of a group with unique collective status and privilege that some feel entitles them to exemption from external challenge.

It may be that only a small minority of Members would fail to set aside these interests in considering cases of bullying and harassment but it is a matter of public record that allegations of the same nature of behaviour against different MPs made since 2017–18 have met with very different responses from some Members, and that the difference has been along political lines. In all cases the motivation and the professional worth of the complainants has been impugned for political ends.

An entirely independent process would protect not only staff but also MPs themselves from the risk of party political or ideological interpretation and treatment of complaints of bullying and harassment. Impartial as the Parliamentary Commissioner and lay members of the Committee on Standards are, the association between the Commissioner and the Committee and the MP and non-MP members of the Committee in determining this kind of complaint is liable to undermine trust in the integrity of individuals and the Standards system as a whole. Whilst I support the Commission's preferred option, I think that there is an argument that all cases should be determined by the independent expert panel, removing the role of the Commissioner from the complaints process, and that this should be explored.

The failure of the processes formerly used by the House to determine complaints of bullying and harassment demonstrates the need for expertise in the areas identified by the staff group: human resources, employment law, bullying and harassment cases, and sexual harassment cases. Procedures for recruitment to the panel, from the development of eligibility criteria to the application and selection process, should be open to scrutiny.

As Dame Laura's inquiry showed, the cost of failure in this area is high. The cost to individuals is difficult to quantify, although measures such as loss of career earnings and onset of acute and chronic medical conditions may be helpful places to start trying. A safe working environment requires an employer to regard mental health as at least on a par with physical health. A physical injury sustained at work is likely to follow a much more straightforward healing process than damage to mental (and physical) health as a result of bullying and harassment. Ensuring that staff are properly treated through this process is effectively an investment in productivity and efficiency.

Challenging the boundaries of what is feasible, and desirable, in terms of ways of working and capacity to deliver results, can be healthy and productive for any public institution if the challenge is issued in a way that is serious and measured, and met with an institutional response that is strategic and safe. Where that challenge comes in the form of arbitrary intervention by individuals who feel entitled to deploy the abusive techniques of coercion and control, and where it is enabled by an institution in thrall to its own culture, the likelihood that the outcome will be positive, or sustainable, is much reduced.

As Accounting Officer, the Clerk of the House is responsible for the use of public money and stewardship of assets. Whilst the House may regard individuals as disposable, or as collateral damage, through their departure it does incur cost to institutional resource and capacity. If the House chooses not to calculate this, then it surely does count the cost of settling with – and silencing – staff who have to leave the service of the House because of bullying and harassment (regardless of how it chooses to define such settlements).

The airing of allegations of bullying and harassment at the House of Commons did not elicit the same public outcry as the exposure of misuse of MPs' allowances and the failings of the system for their regulation but it is as much in the public interest that the House of Commons should be a safe place to work as it is that its Members should use their allocation of public funds properly, even if at present it is less interesting to the public. This should be reflected in the response of the House, which has a role in upholding standards in public life.

That those standards assume rather than spell out the norms of decent behaviour on which they are built, does not absolve the House of responsibility. That the public seems to care less about this kind of impropriety, or to care only if exposure of it can be repurposed for political ends, should not be used as licence by the House to continue to minimise it. Whilst in the short term it might let the House off the hook, in the longer term, lack of care for the operational and reputational integrity of the House is much more damaging.

Given the heavy cost of failure, then, I would query the conclusion that an IPSA model – as the only option requiring legislation – is disproportionate. I accept that a non-legislative route is most likely to achieve agreement and that much-needed change should not be unduly delayed, but the argument that such a model is a disproportionate response on grounds either of cost or the gravity of the offences involved should be open to question. Are bullying and harassment less bad than misuse of allowances? Do they not merit the same outlay in resources, parliamentary time or legislative change? If individual safety is not at issue, then from the perspective of the House as an institution, IPSA might continue to be resented by Members but it is protective against further damage.

If the independent expert panel were to be established by legislation it could have the power to take evidence (on oath if necessary) and to require the production of documents, for example, as opposed to relying on individuals voluntarily to answer questions. The panel's operation would be open to legal scrutiny – judicial review – and both complainants and respondents would have further means of independent testing of their cases.

I would like to be reassured that there has been more detailed consideration given to the question of why an independent panel should not be established in law with powers both to determine complaints and impose sanctions.

2. In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor?

I understand that one argument against legislative remedy is the challenge that would pose to the concept of exclusive cognisance, and more widely of parliamentary privilege and the relationship between parliament and the courts. The dystopian implications of an unelected and unaccountable body deciding who does and who doesn't get to be a Member of the House, potentially altering the balance of power, have also been impressed on me (although if legal sanctions were to obtain here, presumably that risk would be reduced). Is this basis on which there was "widespread acceptance that only the House should decide on suspension or expulsion of its Members"?

Acceptance may be the price of securing change but the questions of where authority lies in this part of the constitution and what the relevance is of parliamentary privilege to the conduct of Members in their treatment of staff are valid.

Why should MPs be seen as the ultimate authority on their own fitness to practise when they are employed by their constituencies and when the collective body of the House of Commons acts more like a trade union than a professional regulatory body? This is not an argument for investigation findings triggering the recall procedure over what are, or should be, human resources matters, but for a proper examination of where power lies in the parliamentary part of the constitution in relation to its other branches.

It has long been established that parliamentary privilege does not trump the criminal law and over the last 25 years the House has, successively accepted the need for an outside Commissioner of Standards, lay membership of the Standards and Privileges Committee and of the Commission itself, and also the whole IPSA structure – so Dame Laura's recommendation should not raise any new issue of principle.

R v Chaytor and others (Appellants) case tested the protection parliamentary privilege afforded MPs in the determination of wrongdoing in relation to allowances and the judgment was that there was no such protection. The court found that it could never be within an MP's functions as a Member to abuse the allowances system. In the same way, it can never be within those functions to bully and harass staff. Although the working relationship between staff and MPs, with their particular status as representatives and as individuals, may be unique, MPs are not entitled to special treatment in human resources matters. There is no challenge to exclusive cognisance, which privileges and protects parliamentary proceedings and the role of Members and others in them, except where a Member is permitted to abuse privilege by using the cover of a proceeding in the Chamber or in Committee – such as a debate on implementing a sanction – to bully or harass staff.

If the argument that making the complaints process altogether separate from Member self-regulation could bring about a dystopian future is followed, then this is an issue just as serious as any of the ramifications of the Brexit process – including

the judgment of the Supreme Court in *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent)*. As such, rather than the House Service tacitly agreeing with some Members that Brexit trumped bad behaviour, the implementation of Dame Laura's recommendation should have had devoted to it a process invested with higher status than a staff working group, and it should have made substantially more resources available to that group.

The playing out of the Brexit process in Parliament and beyond has called into question the durability of the conventions that have served to hold the constitution together and led to calls for its codification. As Lord Lisvane has said:

Conventions...rely for their effectiveness on being understood...and respected by all sides and, to be ineffably old-fashioned about it [*chuckle*], I think there's an element of fair play involved. If for some people that doesn't matter then I think the effects will be far-reaching and I think one effect which we will see gather momentum in the months and years ahead is a move towards a written constitution.²

As part of a codified constitution there is a case for a Privilege Act, which would serve to clarify interpretations of Article IX of the Bill of Rights, and to demystify parliamentary privilege by describing its limits – but that would involve first confronting and then accepting them, which might be as difficult for the House authorities as it would be for Members (even if the limitations of the power of Parliament have been made obvious by a case of contempt with little consequence).³ Well short of this, I would like to be reassured by more evidence that the extensive consultation and engagement on Dame Laura's recommendation documented in the paper has included more detailed consideration of the privilege and constitutional matters it is claimed are engaged by that recommendation.

a. Should the question be decided without debate?

Any procedure on the Floor, debate or no debate, gives a Member an opportunity to reopen a complaint investigation and attempt to politicise it. No matter how restrictive the proceeding – whether or not it is to be taken forthwith, for example – too much depends on the occupant of the Chair. When this dependency has been tested, the Chair has permitted a Member to misrepresent the conclusions of a complaint process, effectively revictimising the complainant.⁴

A precedent has been set, not only for failing to protect staff and their roles in the House, but also for traducing them in print and in broadcast media, by which time it is too late for the House authorities to defend them in any meaningful way. If there must be a question, it should be decided without debate.

b. Should the question be decided with debate but with a Commission member present to speak to the report?

² Interview with *Today*, BBC Radio 4, 30 August 2019.

³ HC Votes and Proceedings, [2 April 2019](#)

⁴ HC Deb (2017–19) 637, c [617](#)

The consultation paper seems to raise the concern of a potential imbalance or anomaly arising from the inability of the panel or complainant to participate in the debate as a kind of equality of arms issue but any sense of this is gone as soon as the matter goes to the Floor of the House and MPs have a platform, and privilege, at their disposal.

It cannot be guaranteed that any Member acting as a spokesperson for the Commission, speaking for the integrity of the process, will not have a relevant interest in the determination of a complaint and proposed sanction.⁵ This would undermine not only the finding in question but also the trust in the independence of the complaints process that is so vital to culture change in the House. Any speech in favour of the integrity of the process, even by a Commission spokesperson free of any such conflict, is likely to be counterproductive.

3. Should the independent expert panel include a former Member?

Absolutely not. Whilst former Members with their first-hand knowledge of the parliamentary context might inform this consultation and the development of an independent process, even if they are expert (in HR, employment law, bullying and harassment or sexual harassment cases), they cannot be regarded as independent.

With the expertise of the panel and its access to further specialist advice as set out in the consultation paper, it is hard to imagine what a former MP could contribute in individual cases except for a Member's perspective. There is nothing so special about the context of an MP's particular functions that it should alter the course or finding of an investigation into a complaint of bullying or harassment. The point of the independent expert panel is to make the process independent of Members, so why bring them back into it?

Submitting to the consultation

I welcome these changes and am grateful to the people who have been working hard and in good faith to achieve them. I am encouraged that Dame Laura and the FDA have said they are pleased with the progress made in this process. But for current and former staff trying to achieve change, who are also acting in good faith and often out of – not an exaggeration – love for their colleagues, their work, their institution and its purpose, it has been unnecessarily gruelling.

I recognise that culture change cannot be effected immediately, and that trust is hard to establish when in the past complaints have been minimised and complainants undermined not only by MPs but by the management of the House. For this reason, I think that continued scrutiny and pressure will be required to make sure that Dame Laura's recommendations are implemented and properly embedded.

This has necessarily been a personal response and reflects my views alone, but I am indebted to the people connected with the House who were so considerate and

⁵ HC Deb (2017–19) 663, cc 885–86

generous when I asked them for their opinions. It has been my privilege to hear from them: I only wish the House Service had thought to ask them first.

Submission from [REDACTED]

Please forgive the lateness of this submission and I fully understand that it may be that the consultation deadline of midnight yesterday precludes your consideration of my response.

Regarding the consultation questions:

- Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

Yes I strongly agree with this preferred option.

- In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

There are many reasons why a debate on the Floor would be inappropriate. [REDACTED]

[REDACTED] the following observations in relation to cases of sexual harassment or violence: widespread myths and victim-blaming stereotypes about sexual violence exist in our society and would be likely to be given free rein in any debate, not least where loyalties among parties to the debate and those accused may be at play. This would be traumatic for victims (and at odds therefore with the Victims' Code, which while it pertains to the Criminal Justice System is nevertheless instructive). This would also deny parties the expectation of an equal footing, unless both parties happened to be Members.

- Should the independent expert panel include a former Member?

No. There is no good reason why the panel should include a former Member. To do so would risk fuelling public perceptions of a culture of exceptionalism among Members and would give the lie to claims of independence. A Member is subject to the same Behaviour Code as others in the parliamentary community and there are no special circumstances that would arise from the fact of being a Member that could or should be deployed when considering a case.

Yours faithfully

[REDACTED]

[REDACTED]@gmail.com

[REDACTED]

Response to Public Consultation on Independent Complaints Process for the House of Commons

This response has been prepared by [REDACTED] on behalf of the Conduct Change Advisory Board. Conduct Change was set up with the purpose of providing advocacy, campaigning, education and awareness raising about workplace bullying. The Advisory Board members bring extensive expertise in relation to bullying and harassment, including sexual misconduct. Representation on the Board is from a range of backgrounds including legal, academic, HR, Learning & Development, and former Parliamentary staff members. Several members of the Board have lived experience, and there is also significant experience of supporting others who have been both the target and the perpetrator of such behaviours.

This paper is in response to the House of Commons Cox III: Consultation Paper which outlines proposals for the creation of an independent expert panel for determining bullying or sexual harassment complaints against MPs with the power to determine cases and decide on sanctions.

It aims to address the outstanding questions in relation to the procedure on the Floor, and the composition of the Panel, as well as to provide feedback on the preferred model and decision process.

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

In order to assess this position, we have reviewed each option in the order presented in the Cox III Consultation paper:

- Continue the current position (with awareness campaign)
- Committee on Standards: lay members only
- Parliamentary Commissioner's Panel
- The IPSA model

Continue the current position (with awareness campaign)

When the Independent Complaints and Grievance Policy Programme Team produced the Independent Complaints and Grievance Scheme Delivery Report in July 2018, it set out to amend the Code of Conduct for Members of the House of Commons

“These changes will ensure that complaints of bullying and harassment against Members can be dealt with even if the behaviour complained about does not reach the current high bar of bringing the House into disrepute and that Members, like others, are bound by the House’s policy on bullying and harassment and sexual harassment.”
(Para 58)

The Delivery Report stressed a need for independence which was borne out both by recommendation 3 in the Cox Report, and reflected in the Behaviour Code:

“Unacceptable behaviour will be dealt with seriously, independently and with effective sanctions.”

Given that this is an option that includes a continuing role for the Committee on Standards, which includes MPs as members, we agree that it should have been discounted. Furthermore, given the steps taken to date, and the substantial allegations against both sitting and former members that have been reported recently in the media, it appears that current processes and awareness raising have not had the impact intended. It is clearly stated that bullying, harassment and sexual misconduct are not tolerated in a range of publications and training resources including (as a minimum):

- Behaviour Code (considered to be “leading edge” in its language particularly in relation to the balance of power, as detailed in the Independent 6 month review by Alison Stanley)
- Bullying & Harassment and Sexual Misconduct policies
- Valuing Everyone training (not yet mandatory for MPs)
- Statements from the new Speaker of the House of Commons
- Ministerial Code (updated in August 2019 – *“Harassing, bullying or other inappropriate or discriminating behaviour wherever it takes place is not consistent with the Ministerial Code and will not be tolerated.”*)

However, the translation of these words into actions is not being applied consistently, and confidentiality and accountability under current arrangements are real areas of concern.

Committee on Standards: lay members only

The Consultation paper states that this option involves a continuing role for the Committee on Standards which was rejected as insufficiently independent during the staff group’s discussions with stakeholders. We agree that this would not be acceptable. Aside from not being in line with the third recommendation set out in the Cox Report, questions about the role of MPs and their access to information would be inevitable, and there is a potential lack of specific expertise.

Parliamentary Commissioner's Panel

We agree that this this option should also be rejected on the grounds that it involves a continuing role for the Committee on Standards which would make it insufficiently independent.

The IPSA model

Given that the paper only notes that the *"IPSA model was widely regarded as disproportionate and received little support during the consultations"* and does not elaborate on the reasons for that response, we have assumed that it has been rejected on both the grounds of the costs of setting up an additional organisation, and as the only option appearing to require legislation. We would be interested in further clarification of the case against legislation.

Preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS ("Parliamentary Tribunal")

We agree that establishing a completely Independent Expert Panel should be the preferred option. We also believe that in addition to the relevant areas of expertise for panel members as identified by the staff group, it would be beneficial to include representation from independent members with lived experience from other workplace contexts.

Paragraph 401 of the Cox Report states that *"The investigation into the conduct of a Member of Parliament should be carried out by someone whose status, independence, expertise and experience are beyond question, and who has power to take evidence and require the production of documents."* Greater clarification over the scope of the Panel and its powers are needed to ensure that no one can abuse the process, for example, by refusing to supply evidence to investigations and appeals.

Should the independent expert panel include a former MP?

The particular question of whether the expertise required should include first hand knowledge of the parliamentary context and if so, whether the panel should include a former Member, has been asked. Our answer is unequivocally no, it should not.

A former MP will inevitably have an ongoing association with the House as an institution, may have ongoing personal or professional relationships with sitting MPs and cannot be considered

independent. It is time to recognise that this change is necessary because of the lack of impartiality of MPs in the past. We recall that paragraph 233 of the Cox Report states that *“Information from the HR Service is that despite an increase in ‘Valuing Others’ complaints in recent times, including some references to “negative management behaviours” there have been no findings in external investigations of bullying and harassment in any of the complaints brought over the last 4-5 years.”*

These cases are about behaviour, about conduct, about the way in which one person (or a group) has treated another, and the subsequent impact of that behaviour. Gemma White QC said in Paragraph 51 of her *Independent Inquiry into Bullying and Harassment of MPs’ Parliamentary Staff* in July 2019 *“I consider it to be of fundamental importance to the successful application of any bullying and harassment policy that definitions are applied flexibly and that the focus is on the **effect** of the relevant behaviour on the person concerned.”* The parliamentary context is of lesser importance here and it is all too easy to try and hide behind the complexity of an organisation than to achieve real change. Should Panel members require knowledge of the “parliamentary context”, as the consultation papers states, they will have access to advice from House staff and specialists as needed.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

Here we will consider the proposed new decision process as a whole, as well as procedure on the Floor. The question assumes that a sanction of suspension or expulsion would only be recommended in very rare circumstances. It may be the case that only a small minority of MPs persist in the kind of behaviour that would incur such penalties but without evidence for this estimate – which depends entirely on the conduct of the people against whom complaints are made - no notional limit should be set. We note that the Annual Report of the Independent Complaints and Grievance Scheme July 2018 – June 2019, states that the “Bullying and Harassment Helpline is supporting significantly higher volumes of callers than was originally anticipated.” We would hope that the most serious cases are rare and the awareness raising and training will seek to eliminate bullying behaviours, but the system should not take this for granted.

The Cox III paper states that *“the consultation by the staff working group suggested that there was widespread acceptance that only the House should decide on suspension or expulsion of its*

Members.” If a case has reached the Independent Expert Panel, and it has concluded that suspension or expulsion is the appropriate sanction, then the House should accept this decision, or the entire process becomes irrelevant. This would be damaging inside the House and in the eyes of the public, and not least to those involved in the complaint on either side. Determination of a complaint must not be influenced by politics, and a vote against a decision of the Panel would bring the House into disrepute.

Consider the decision process as a whole (see Appendix 1 for further observations about the process), and the damage that occurs when investigations take place, to both parties in this scenario. The complainant has already contacted the helpline and explained their situation, followed by explaining it again to the Independent Investigator. This is after they have spent time collating evidence themselves. Every time they recount the details, they are reliving the trauma, which impacts on their health and wellbeing, both mental and physical. They have inevitably been under considerable stress before reporting the bullying (which we are using as a term to encompass bullying, harassment and sexual misconduct in this context) and may struggle to articulate what has happened, particularly if it is covert and psychological bullying, often behind closed doors.

The respondent is also informed of the complaint and will inevitably be reacting to a stressful situation which will also affect their health and wellbeing, and which may be exacerbated by the respondent’s status as a public figure. It should also be noted that the proposed decision process makes no specific reference to provision of support, although we recognise that the helplines are able to signpost when the initial enquiry is made, and informal resolution should be attempted where feasible. Based on our experience, we recommend that as soon as a complaint is made formal, both parties are provided with 1:1 specialist support because this is the stage at which behaviours and emotions often escalate.

Even if we assume that the case is serious enough to be referred to the Panel by the PCS, and is therefore determined by the Panel, the pressure on the health of the individuals involved in the case, as well as the ripple effect it has on staff morale and productivity, is extremely serious. There is significant research showing this to be the case in any employment context. To have a decision made at that stage, only for it to be overturned by MPs for political reasons, however disguised, could easily be the breaking point for those involved.

The wider lack of understanding about how to handle these cases has been all too clear following recent allegations reported in the media. Ministers and other MPs have made comments that show political allegiance taking priority over respect for due process. The Ministerial Code clearly states that “harassing, bullying or other inappropriate or discriminating behaviour wherever it takes place is not consistent with the Ministerial Code and will not be tolerated.” We offer that in order to provide a consistent approach, it may be helpful for bullying, harassment and sexual misconduct claims at this level to also be referred to the

Independent Expert Panel. Seniority of role should not exempt anyone from adherence to these codes for behaviour.

We have also taken time to consider the role of Parliamentary privilege and the complexity introduced where the conduct in question is in the context of a proceeding. The Cox Report has already explored how this aspect relates to application outside of “proceedings in Parliament” and summed up the position in a clear and concise way. Our view is that the focus should always remain on the conduct and standards of behaviour rather than the context, and this is an area where working with the Independent Expert Panel to create further internal guidance may be useful.

Having reviewed each of these perspectives, our conclusion is that under no circumstances should there be any debate on the floor.

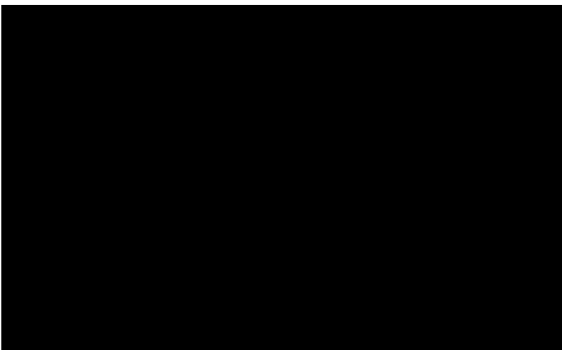
Conclusion

Conduct Change supports the preferred option of the creation of an independent expert panel for determining bullying or sexual harassment complaints against MPs with the power to determine cases and decide on sanctions. It should not include a former MP, and there should be no debate on the Floor when sanctions are recommended by the Panel.

We believe that there is a case for a statutory process that allows the sanctions that it proposes to be accepted by the House in their entirety and would like to see this explored in more detail. The House must reflect best practice: not only upholding the law but also standing firm in its statement that bullying, harassment and sexual misconduct are not tolerated and acting as an exemplar for employers throughout the UK.

Conduct Change will continue to follow the implementation of Laura Cox’s recommendation and will work to help the House ensure that the system is as fair and effective as possible.

Conduct Change Advisory Board Members

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If you have any queries about this response, please contact [REDACTED] Conduct Coaching Ltd and [REDACTED]

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Appendix 1

Additional observations and queries that have arisen after reviewing the proposed new decisions model.

- When sanctions are imposed by the PCS, is there a review period? Will cases where the MP has not complied with sanctions be referred to the Independent Panel?
- When the Independent panel makes a decision, what is the difference between Upheld, and Upheld and sanctions imposed?
- Does the Panel have the option to ask for further investigation?
- The Appeal process limits the complainant on the basis of not following due process, or new evidence available. Given that mental health can be severely affected, making it difficult to both remember and articulate events, can the appeal be postponed to allow for a recovery period?
- ACAS guidance states that an employee may appeal “If an employee informs the employer that they are unhappy with the decision after a grievance meeting”, or if the outcome has not resolved the process. In larger organisations, there is the option to allow a further appeal to a higher level of management, but the House of Commons has chosen a much shorter process. Is there any flexibility in this process?
- Does an MP have the right to resign and claim constructive dismissal through an Employment Tribunal if they do not agree with the sanctions imposed?
- What support will be put in place if the complaint is not upheld and the individuals still work together?
- Sanctions may include an apology. Apologies are welcomed but do not change behaviour. What follow up action will be taken to ensure that no repeat of the behaviour occurs?

FDA Response to House Commission Consultation on Independence

March 2020

The FDA welcomes the opportunity to respond to this consultation. In preparation for our response we have consulted with members of the FDA branch in the House of Commons. We have answered the questions in the consultation and also included some additional points at the end of our response.

It has been a long-standing position of the FDA that the process for complaints against MPs should be independent of MPs at all stages, including decisions on sanctions. It is the FDA's view and experience that without full independence any complaints procedure is set up to fail, and indeed is the reason why the Respect Policy failed. We made this very clear at numerous opportunities when the Independent Complaints and Grievance Scheme (ICGS) was designed and we were very disappointed that the ICGS was not fully independent (and this is why the FDA did not accept the ICGS in July 2018).

The FDA welcomed Dame Laura Cox's three recommendations in her 2018 inquiry and we called for the recommendations to be implemented in full and immediately, and the House Commission agreed to do that on 29th October 2018.

In her inquiry Dame Laura Cox QC was clear - bullying, harassment and sexual harassment diminishes the authority and credibility of Parliament and the failure to act will only inflict further damage upon its reputation. We are pleased that the House Commission made the decision to back the creation of a Parliamentary Tribunal for determining complaints of bullying and harassment by MPs. We urge it to not delay following this consultation and get the Parliamentary Tribunal established as soon as possible. This represents the seismic change that Dame Laura called for in her inquiry and we believe that this will bring about the cultural change needed in Parliament.

Consultation Questions

Do you agree with the Commission's preferred option of establishing an independent panel of experts (Parliamentary Tribunal) to replace the Committee on Standards in determining complaints against MPs under the ICGS?

The FDA's favoured option is the Parliamentary Tribunal. This is the independent system that staff have been calling for, for years but there are also additional benefits to the Parliamentary Tribunal such as it is easy to understand and it brings in employment expertise (which is reflected in the name). Fundamentally, the Parliamentary Tribunal will have the trust and confidence of staff.

The FDA branch designed the initial idea of the Parliamentary Tribunal (submitted to the staff team set up to work on this issue, in June 2018) and this means that we have been able to use our experience to design a system that will work.

Crucially, the initial reaction from staff to the announcement of a Parliamentary Tribunal has been admiration that the House Commission have finally listened to staff and got it right. This feels like this could be a turning point in changing the culture of the House and it is a vindication for all of those who believe that they can make Parliament a better place to work.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

It is the FDA's strong belief that the Commission should replicate the House of Lords and agree to the report findings and sanction without debate. We understand that this will take courage on the part of MPs as they will have to trust that the new system will be fair but we would remind them that staff have no choice but to put their trust the system too so it is only right that Parliamentarians do the same and not allow themselves a second, and ultimate, right of appeal.

If the right to debate was allowed the FDA believes that this would not be the full independence that Dame Laura Cox recommended. Her third recommendation that said:

Steps should be taken, in consultation with the Parliamentary Commissioner for Standards and others, to consider the most effective way to ensure that the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, **in which Members of Parliament will play no part.**¹

If MPs are allowed to debate any aspect of the complaint, they will be playing a part in the process and this would not represent full independence. If MPs retain the ability to debate the findings of the report or the fairness of the sanction on the floor of the House, staff will feel that MPs are giving themselves a second right of appeal beyond that detailed in the procedure. This could effectively render the independence of the investigation and determination of the complaint meaningless.

In the House of Lords, decisions are agreed without debate and this was agreed by Standing Order, therefore, if the House of Commons did the same and there were an exceptional circumstance where MPs felt that there should be a need to debate they could overturn the Standing Order.

The decision to expel or suspend an MP would only be made in the most serious cases. The complaint would have been upheld by the independent Parliamentary Tribunal and any appeal against it would have failed. Therefore, we would ask what MPs felt they needed to

¹ [The Bullying and Harassment of House of Commons Staff – Independent Inquiry Report](#), October 2018

debate and what value they felt was added to the process of having a debate. There is already a right of appeal in the process, available to both the complainant and the MP so the purpose of a debate should be to offer MPs a second, and ultimate, right of appeal. It is very unclear what in particular MPs would feel necessary to debate and why this would add value to the process.

Conversely, there would be considerable downsides to MPs giving themselves the right to debate. There will be a great deal of concern amongst staff that, even if the determination and sanction were upheld, Parliamentarians could still reveal identifying information about the complainant or witnesses; reveal personal circumstances of the complaint; or cast doubt upon the facts found in the report, all unchallenged, all while protected under privilege. The threat of this may be enough to intimidate some staff not to put in their complaint at all.

If staff are deterred from raising their complaints bad behaviour cannot be dealt with and the culture of acquiescence, silence and deference that Dame Laura found in her inquiry will be left to flourish.

We ask the House Commission to remember that just a fortnight after Dame Laura Cox' report was published, we saw the House of Lords vote to overturn the decision by their own Commissioner for Standards to suspend Lord Lester over sexual harassment claims and this was in the full glare of the press after Dame Laura's inquiry. Naomi Ellenbogen described this as having a "chilling effect". She was told on numerous occasions that:

any earlier belief that a complaint to the Commissioner for Standards might be worth pursuing had vanished: whatever the independent Commissioner's recommendation to the relevant committee and the committee's recommendation to the House, ultimately powerful members would protect their powerful friends, at the expense of the complainant, whose public humiliation would be immortalised in Hansard. Making a complaint was not only pointless; it was devastating, both personally and professionally.²

House of Commons staff will have no confidence that faced with a similar circumstance MPs will not do exactly the same as the Lords did in the Lord Lester case.

We would ask the House Commission to think about how a member of staff would feel in that position. To be bullied, harassed or sexually harassed, to go through the complaints process, have their complaint upheld (and the complaint is so serious that the sanction is an expulsion or suspension) and then their complaint is debated on the floor of the House, in their own workplace, and recorded.

Further, we would ask what it would do if there was a repeat of the Lord Lester case in the House of Commons. The Commission needs to consider:

² Para 181

- What would happen to the staff member's complaint (bearing in mind that the complaint would have been upheld following an appeals process and that if the sanction was expulsion or suspension from the House it would be a serious complaint or a repeat offender)? How would the employer respond and what would the next steps be? It can't be an option to say that in that scenario the complaint would be left without a sanction.
- What measures would it take to protect other staff from being bullied, harassed or sexually harassed in the future by that MP? Are there any issues of liability in their duty of care for the employer, given that they would be aware of an MP's behaviour as there would have been an upheld complaint which was deemed so serious that it warranted suspension or recall?
- Would it consider this failing in its duty of care to staff to have a functioning bullying, harassment and sexual harassment policy and what measures would it take to ensure that it didn't fail for subsequent complaints?
- If MPs, in the course of a debate, re-victimize the complainant, would that be considered in itself an act of bullying and/or harassment?

We cannot stress enough that the Commission should replicate the House of Lords and agree to the report findings and sanction without debate and they should not consider this move as the consequences are potentially devastating to the House's credibility as an employer.

Should the independent expert panel (Parliamentary Tribunal) include a former Member?

It is the FDA's strong belief that there should not be a former Member on the Parliamentary Tribunal.

As above, Dame Laura's third recommendation said:

Steps should be taken, in consultation with the Parliamentary Commissioner for Standards and others, to consider the most effective way to ensure that the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, **in which Members of Parliament will play no part.**³

A former MP would not be considered independent and would bring the entire tribunal's independence into question. It is inconceivable that a former MP would not still have party political loyalties and indeed we know from experience that even across party lines MPs have loyalties to one another before staff. In her report Dame Laura said that there was a "general reluctance of Members to judge the misconduct of other Members, or even to assist in the investigations by others into such misconduct."

³ [The Bullying and Harassment of House of Commons Staff – Independent Inquiry Report](#), October 2018

This would also have consequences for the credibility of the Parliamentary Tribunal's decision-making and authority. If a sanction had been weakened, or an MP's appeal upheld, the assumption would be that this was due to the former MP's influence.

A former MP would not add value to the Parliamentary Tribunal as they are supposed to be employment experts not parliamentarians. This will be seen by staff as someone who is there to make excuses about the unique status of an MP's job rather than to enforce normal workplace behaviours.

The Parliamentary Tribunal is quite different to professional regulators such as the General Medical Council (GMC) or Nurses Medical Council (NMC), which have a member of their profession on panels for professional misconduct hearings. In the latter case, the role of the professional expert is to give clinical or medical expertise, to understand whether the individual has committed a medical or clinical error and whether they are no longer deemed fit to practice in that profession. The Parliamentary Tribunal is more comparable to disciplinary procedures in an employment setting than to regulatory investigations.

This is the opportunity to change the culture that has been allowed to persist in Parliament. This will not happen by taking incremental steps towards independence and by MPs not showing the courage to fully put their trust in a system that staff have no option but to trust. Staff are not complacent about this issue; they have allowed the Commission time to get this right, understanding the complexity of the issue, but they will not accept another missed opportunity to implement a fully independent procedure.

Additional Comments

Sanctions

Currently under the Independent Complaints and Grievance Scheme the only sanctions are an apology and training or for more serious cases, suspension and recall (when an MP is suspended for more than ten days this would automatically trigger recall). As the FDA has long argued, there must be intermediate sanctions in the forms of warnings which allow for the Parliamentary Tribunal to take a more considered approach so they only need to use recall in the most serious and egregious cases.

This is particularly important when dealing with repeat offenders – the use of timed warnings, common in employment environments -would allow the Parliamentary Tribunal to sanction repeat offenders with escalating sanctions e.g. if an MP is on a 12 month warning and they have a complaint made about them during the time they're on a warning the Tribunal can issue a more serious sanction the next time.

The warning system would allow for other sanctions to be applied – e.g. while on a warning an MP may not be allowed to sit on a select committee or be elevated to the House of Lords.

The House of Lords

The House must institute a joined-up approach across Parliament, with the House of Lords. It would be catastrophic if an individual were to have multiple complaints against them upheld for behaviours while in the House of Commons but sanctions can't be applied to them even though they are on the Parliamentary estate in the House of Lords.

Past cases

As the House is aware, the FDA did not accept the introduction of the new Independent Complaints and Grievance Procedure in July mainly because it introduced an arbitrary restriction for past cases (restricting to the last parliament) and because the policy is not fully independent. In terms of the past case restriction, at the time we wrote to the Steering Group and to the House Commission to set out the legal advice we had obtained that showed that there was no legal reason why the arbitrary time restriction should be put in place and argued very strongly for its removal. We noted at the time that the Steering Group's own legal advice also argued against the introduction of the restriction, this was very damaging to staff's trust and confidence in the new policy as it was clear that the restriction was a political choice.

Our view has always been (and we made this point in our response to the non-recent cases consultation) that the second and third Cox recommendation are mutually dependent and that the success of each will depend on the successful design and implementation of both. While the non-recent cases recommendation was implemented in July 2019 it is clear that these cases need independent determination and sanctions just as much as current and future cases do.

5 March 2020.



Cox III: Consultation Paper

Submission by Prospect to the House of Commons

March 2020

www.prospect.org.uk

Introduction

1. Prospect welcomes the opportunity to respond to the consultation paper "Cox III". Prospect welcomed the publication of the Dame Laura Cox report and her accompanying recommendations. Staff working in Parliament have a right to be treated with fairness, dignity and respect. Key to achieving this is having systems in place where, when staff have concerns, they have confidence that the matters they raise will be investigated and fairly considered.
2. This consultation relates to the third final recommendation of the Dame Laura Cox report which has yet to be implemented, which was:

"Steps should be taken, in consultation with the Parliamentary Commissioner for Standards and others, to consider the most effective way to ensure that the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, in which Members of Parliament will play no part".
3. This crucial recommendation for many was at the heart of the Dame Laura Cox report and would provide the acid test as to the appetite within Westminster to tackle seriously the unacceptable behaviours many staff had informed Dame Laura Cox of. Against that backdrop the proposals set out are very welcome. In terms of the specific issues raised, we have the following comments:

Do you agree with the Commission's preferred option of establishing an independent panel of experts to replace the Committee on Standards in determining complaints against MPs under the IGCS?

4. Absolutely. The forming of an independent panel goes to the heart of providing a system which staff will have confidence in. The panel will bring in relevant expertise who will have a contemporary understanding of work place issues and the standards and behaviours expected in a modern workplace. The suggested Parliamentary Tribunal will deal with the most serious of cases as well as providing a route to consider appeals. The Parliamentary Tribunal will also take consideration of fact, and sanction out of the political arena, and out of the hands of those who may have a vested interest in the matters under consideration.

In the very rare circumstances where the House is asked to implement a sanction of suspension or expulsion of a member following a panel determination, what process should be followed on the Floor? Should the question be decided without debate? Should the question be decided with debate but with a Commission member present to speak to the report?

5. The question should be decided without debate. The matters to be considered will have already gone through a rigorous process sanctioned and authorised by the HoC. Parties to the matters under consideration will have had the opportunity to participate and provide evidence for proper consideration. They will also have had the opportunity to access an appeals process where they dispute any findings. The notion for plaintiffs that the matters of their complaint may then become matters of debate on the floor of the HoC would have an absolute chilling effect and would take place in a context where that individual has no redress. Both in terms of respecting confidentiality and principles of natural justice, the only option must be, if the matters need consideration by the House, the matter must be decided without debate. In reality this should be a formal ratification process.

Should the independent expert panel include a former Member?

6. We see no value or merit in the expert panel including a former Member. We believe the inclusion of a former member would reduce the confidence staff will have in the system and their willingness to use it which runs counter to the recommendation of Dame Laura Cox. The individual would not be regarded as independent and their

presence reflective of a culture from an era we are seeking to move on from. This is not a professional regulatory body where matters of technical or clinical expertise may be needed to consider the professional conduct of an individual. This is about the conduct of individuals in what should be a modern and inclusive workplace.

Other matters for consideration

Range of sanctions

7. Under the ICGA, the sanctions available are an apology and training and for more serious cases suspension and recall. We believe that reflecting employment practice elsewhere that an intermediate suit of sanctions should also be available in order ensure an appropriate sanction is available dependent on the facts of each case and to ensure there can be a process of escalation where there may be repeated offences over a period of time. The Tribunal should have the power to issue time bound warnings, so it is clear that a repeat offence would be regarded with increased seriousness. It also provides the flexibility for sanctions such as whilst a warning is in place the MP may not be allowed to sit on a select committee.

House of Lords

8. It is imperative that there is a joined up approach across Parliament so the sanctions process and principles must also apply to the House of Lords.