
Independent Complaints and Grievance Scheme

Sexual Misconduct Policy & Procedure

Published July 2018
Updated October 2019

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1 Introduction and Aims

1.1 Parliament believes that all people have the right to be treated with dignity and respect and not be the subject of sexual misconduct, harassment or discrimination of any kind. We expect all members of the Parliamentary Community (see Scope) to treat others accordingly, promote a culture that supports this and protect individuals from harm.

1.2 This Policy and Procedure, the Behaviour Code and the Bullying and Harassment Policy and Procedure provide a framework for us to create a respectful and courteous working environment and to respond to any allegations of unacceptable behaviour promptly, fairly and effectively. The aims of the Policy and Procedure are to:

- Ensure that all members of the Parliamentary Community are aware of their responsibilities in relation to sexual misconduct.
- Provide a fair, transparent and consistent approach for reporting, investigating and responding to allegations of sexual misconduct.
- Provide information about sources of support available to anyone who experiences sexual misconduct or who is accused of sexual misconduct.

2 Zero Tolerance Approach

2.1 This Policy and Procedure relates specifically to sexual misconduct. Sexual misconduct is unacceptable in all circumstances and may also constitute a criminal offence. This approach means that sexual misconduct will not be tolerated by the Parliamentary Community and an abuse of power can be an aggravating factor in such cases.

2.2 All reports of sexual misconduct will be taken seriously. Members of the Parliamentary Community found to be behaving in this way will be dealt with under the appropriate routes and sanctions will apply.

2.3 This Policy and Procedure sets out how Parliament defines sexual misconduct, what we expect of those in the Parliamentary Community, the support we will provide to all parties and the options and remedies available to them.

3 Definitions

3.1 The definitions below will be used for determining whether any behaviour reported under this Policy and Procedure constitutes sexual misconduct.

3.2 All behaviour that constitutes sexual misconduct is a breach of the Behaviour Code. However, not all breaches of the Behaviour Code would constitute sexual misconduct. When alleged incidents of sexual misconduct are reported using this Policy and Procedure, any investigation will assess whether the incidents constitute sexual misconduct.

Sexual Misconduct

3.3 Sexual misconduct incorporates a range of behaviours including sexual assault, sexual harassment, stalking, voyeurism and any other conduct of a sexual nature that is non-consensual or has the purpose or effect of threatening, intimidating, undermining, humiliating or coercing a person. Sexual misconduct is used to describe the range of behaviours that will be treated as a potential breach under this Policy and Procedure, encompassing behaviours that may or may not also be defined as sexual harassment or sexual offences in the context of civil or criminal courts. However, using the language of sexual misconduct makes it clear that the Policy and Procedure for Parliament is separate from and additional to any court processes.

3.4 For the purposes of this policy, although it may not be illegal to pay for sex, in line with best practice it is considered unprofessional, inappropriate and a breach of the Behaviour Code, if this occurs whilst individuals are acting in a parliamentary capacity or engaged in activity connected to their membership of the Parliamentary Community both in the UK and overseas.

4 Legislation

4.1 Harassment of a sexual nature is defined in the Equality Act 2010 section 26 (2) (3). A non-exhaustive summary that covers the majority of what is meant by the term is: unwanted behaviour that is sexual in nature or draws attention to sex in an unwanted way. The law around sexual harassment is grounded in a rights framework; sexual harassment offends the universal right to work in a dignified, safe environment and not be subject to discrimination.

4.2 Forms of sexual harassment and sexual misconduct may also constitute criminal offences under a range of legislation, including, but not limited to, the Sexual Offences Act 2003 and the Protection from Harassment Act 1997 and national legislation in Scotland and Northern Ireland. Potential criminal offences include sexual assault, sexual assault by penetration, rape, harassment, stalking or ‘revenge pornography’.

5 Behaviours

The following behaviours may constitute sexual misconduct if they occur inappropriately or without explicit full and freely given consent.

5.1 This non-exhaustive list provides examples of broadly escalating severity in the categories of verbal, non-verbal/environmental and physical sexual misconduct. However, impact and trauma will be felt differently by those experiencing sexual misconduct.

5.2 **Verbal**—sexual remarks including those about appearance or clothing, jokes, catcalls, questions about sexual life, raising sexual topics, verbal advances, etc.

- Asking personal questions about sexual or social life or offering unwanted personal information about own activities.
- Remarks that draw attention to someone's sex in an inappropriate or unwanted way.
- Enquiring about sexual history, fantasies or preferences.
- Making sexual comments about a person's clothing, anatomy, or appearance.
- Obscene phone calls of a sexual nature.
- Repeatedly propositioning someone.
- Subtle or overt pressure for sexual activity, including requests or demands for sexual favours and promises of reward in return.
- Threats of reprisals if requests for sexual activity are turned down.
- Treating someone less favourably because they have rejected or submitted to unwanted sexual conduct.

53 **Environmental/Non-Verbal**—displaying pornographic or sexually explicit material, sexist comments and pictures on social media, stalking, image-based sexual abuse such as up-skirting, revenge porn, deep fake porn, etc.

- Obscene texts, emails, notes or letters of a sexual nature.
- Inappropriate gifts of a sexual nature.
- Inappropriate advances or stalking via social media.
- The circulation or displaying of pornography.
- Sharing private sexual materials of another person without consent.
- Repeatedly propositioning someone in writing.
- Repeatedly following or tracing the movements of another person without good reason.

54 **Physical**—suggestive looks and gestures, staring, leering, threatening behaviour, brushing past someone, pinching, touching, groping, promises/threats related to career prospects in return for sexual favours, etc.

- Uncalled-for physical contact, deliberate brushing past.
- Unwelcome and inappropriate touching, hugging or kissing.
- Groping, grabbing, kissing or fondling without consent.
- Indecent exposure (masturbation, nudity) and acts of voyeurism or exhibitionism.

- Attempting to or engaging in sexual intercourse or a sexual act without consent.

6 Consent

6.1 The definition of consent provided by the Sexual Offences Act 2003 is agreeing to something by choice and having the freedom and capacity to make that choice. This Policy uses the same definition of consent in relation to sexual misconduct.

6.2 Capacity—A person's capacity is dependent on whether they are physically and/or mentally able to make a choice and to understand the consequences of that choice. For example, a person does not have the capacity to give consent if:

- They are drunk or under the influence of drugs, for example they may still be physically able to have sex but they may not be able to consent.
- They are asleep or unconscious.
- They may not have capacity if they have a disability or impairment, including learning difficulty, physical disability or mental health condition.

6.3 Consent is ongoing and needs to be negotiated every time one engages in sexual activities. Individuals must stop if they are not absolutely sure that they have someone's consent. Any prior sexual activity or relationship does not, in and of itself, constitute consent. Consent may be withdrawn at any time (including during a sexual act) and can never be implied, assumed or coerced.

7 Terms used in this Policy and Procedure

- Reporter: This is an individual who reports or makes a complaint of sexual misconduct.
- Responder: This is an individual who is accused of sexual misconduct by a member of the Parliamentary Community or a visitor to Parliament/a constituency office.
- Sexual misconduct: Any act that is covered by this Policy and Procedure, including sexual harassment and sexual violence.
- Independent Sexual Misconduct Advisory Service (ISMA Service): The ISMA Service is available for all and offers advice, support and signposting throughout the three Sexual Misconduct Pathways in the procedure.
- Independent Investigation Service: The service available if a reporter decides to make a complaint. It provides an independent and impartial investigation of any cases which enter the Complaint Pathway.
- Decision-making bodies: The organisations within the Parliamentary Community with responsibility for the reporter and responder

depending on their role/employment function. Decision-making bodies are responsible for deciding and implementing appropriate actions and/or sanctions following an independent assessment of a complaint.

8 Intersectionality and Impact

8.1 Sexual misconduct can happen to anyone and can be carried out by anyone, but the research is clear that it is disproportionately carried out by men against women. Sexual misconduct is both a cause and a consequence of inequality and power differences.

8.2 Research shows that the incidence and specific experience of sexual misconduct can be affected by a number of characteristics of those who are targeted, including the protected characteristics covered under the Equality Act 2010, such as: age, disability, gender reassignment, race, sex and sexual orientation. Characteristics such as race and sex and sexuality can intersect with each other in ways that create specific issues (for example a Black woman might be targeted with racialised sexual harassment). Additional factors which influence power dynamics include class and if a position of authority is held.

8.3 Research has documented the impact of sexual misconduct upon those who have experienced it. Impact cannot be predicted and varies with every individual. Emotional and physical impact can include anxiety and long-term depression, sleep disorders, lowered self-esteem and a range of physical impairments. From a workplace perspective, sexual misconduct can lead to a hostile and unpleasant working environment or the risk of loss of job or promotion opportunities, reduced productivity and increased staff turnover.

9 Scope

9.1 This Policy and Procedure applies to acts of sexual misconduct by and against any member of the Parliamentary Community, provided that it takes place in conjunction with their parliamentary role or function. It includes sexual misconduct by individuals (see 10.3), such as a visitor to the Parliamentary Estate.

9.2 For the purposes of this Policy and Procedure, the Parliamentary Community comprises all those working for or with Parliament either on the Parliamentary Estate, in constituency offices or elsewhere in the course of parliamentary work.

9.3 This Policy and Procedure sets out the standards of behaviour expected of individuals to protect them from sexual misconduct. The list of individuals who can make a report or complaint through the Policy and Procedure includes:

- Members of Parliament (MP) or Peers;
- Employees of MPs or Peers or other people working for them, such as volunteers, people undertaking work experience or interns;

- Employees of the House of Commons and Parliamentary Digital Service following a decision by the House of Commons Commission on 16 July 2018;¹
- Employees of the House of Lords following a decision by the House of Lords Management Board on 5 November 2018;²
- Specialist Advisers and others supporting Parliamentary work, including people employed by political parties or collectively employed by MPs (e.g. PRU, PRS and Group staff);
- Members of the Press Gallery;
- Contractors, agency workers, inward secondees or interns to any of the relevant bodies above;
- Visitors at Westminster

9.4 The work of the Parliamentary Community is broad and can involve office work, public facing work, travel and social events related to parliamentary business, as well as non-standard working hours. As a result, this Policy and Procedure applies to behaviour by members of the Parliamentary Community:

- On the Parliamentary Estate.
- At constituency offices or other places of work.
- In the course of parliamentary duties and activities (including UK or overseas travel, all events related to parliamentary business, conferences, social events, gatherings and functions).

9.5 Members of the Parliamentary Community should expect the provisions of employment legislation, including the Employment Rights Act 1996 and the Equality Act 2010, to apply to employment related matters in all circumstances covered by 10.4.

10 Other Ways of Reporting Sexual Misconduct

10.1 This Policy and Procedure are not intended to discourage individuals from reporting incidents of sexual misconduct to the police, an employment tribunal, their employer, a political party or the relevant Commissioner for Standards. Making use of the specialist ISMA Service available, as set out in Pathway 1 of the procedure, may help individuals to come to a decision that they judge to be right for them.

1 This was updated on 16 July 2018 and that the text previously said "[House of Commons staff subject to a decision by the House of Commons Commission

2 This was updated on 20 November 2018 and that the text previously said "[Employees of the House of Lords; - subject to House of Lords Management and TUS consultation]"

10.2 Where a reporter chooses to use another policy route (such as a political party route) to make a complaint of sexual misconduct, the Investigation Service reserves the right not to investigate the same incident under this Policy and Procedure.

10.3 The nature and scope of the Policy and Procedure is fundamentally different from that of a criminal process. The Policy and Procedure is a disciplinary matter for the Parliamentary Community based upon an allegation that an individual has breached the Sexual Misconduct Policy and Procedure.

10.4 Where someone has reported an alleged criminal offence to the police and has made a complaint under this Policy and Procedure, the circumstances of the case will be considered, to determine whether it is appropriate to investigate the matter under this Procedure at the same time, or whether action under this Procedure should be paused until the criminal investigation is complete.

11 Victimization

11.1 Fear of victimisation is a major barrier that can prevent individuals from seeking support or resolution. Members of the Parliamentary Community are prohibited from engaging in any form of victimisation, revictimisation, or encouraging others to victimise someone who has made, or has supported someone else in making, a report/complaint or has cooperated in the investigation of a report/complaint.

11.2 If victimisation or retaliation are uncovered in the course of an investigation, they will be taken seriously as outlined in section 8 of the Procedure.

12 Malicious or Vexatious Complaints

12.1 We require all individuals involved in a complaint made under this Policy and Procedure to provide accurate information made in good faith. False accusations of sexual misconduct, while rare, can have serious consequences.

12.2 Complaints will always be assumed to be made in good faith unless there is evidence to the contrary. The Independent Investigator will always examine the evidence from the case to determine whether a complaint is made in good faith.

13 Confidentiality

13.1 Parliament recognises the importance of privacy and confidentiality in cases of sexual misconduct. For this reason, breach of confidentiality is an aggravating factor in any finding of sexual misconduct. Mechanisms will be put in place to protect confidentiality of all the parties involved throughout the three pathways of the procedure and all parties will need to respect confidentiality (see section 8 of the Procedure, aggravating factors).

13.2 Any sensitive information disclosed will be held subject to and in accordance with the provisions of the Data Protection Act 2018.

13.3 At all stages, those receiving disclosures and/or processing details of cases are required to keep the names and details confidential, to protect the rights of the parties involved.

13.4 However, there may be circumstances where certain information may need to be shared with other parties consistent with safety, a duty of care or because of Parliament's safeguarding responsibilities. In these cases, permission will be sought and, if not granted, the risk of potential harm will be weighed up.

14 Provision of Support

14.1 The Independent Sexual Misconduct Advisory Service (ISMA Service) provides confidential, independent, specialist and trained support in relation to sexual misconduct.

14.2 The ISMA Service is staffed by accredited and experienced Independent Sexual Violence Advisors (ISVAs) who provide specialist support, advice, advocacy and signposting in relation to instances of sexual misconduct which fall within the scope of this Policy and Procedure.

14.3 The primary aim of the ISMA Service is to provide advice, support and signposting so that individuals can make informed choices about the pathways they wish to pursue.

15 Time limits

15.1 The sooner a complaint or report is made, the better the chance of thorough evidence gathering. Therefore, early reporting or making a complaint of sexual misconduct is encouraged. There may be times when a reporter does not want to or feel able to make a report soon after an alleged incident or incidents of sexual misconduct, the barriers to early reporting are understood and acknowledged and a delayed decision to make a report will be respected and not treated with suspicion.

15.2 All members of the present and past Parliamentary Community as set out in section 9 (Scope) of the Sexual Misconduct Policy can access the ISMA Service for advice and support and signposting as outlined in Pathway 1. However, under Pathway

2 & 3, retrospective investigations using this Sexual Misconduct Policy and Procedure are limited to the start date of the 2017 Parliament. Previous acts of sexual misconduct prior to the start date of the 2017 Parliament can be included where such acts amount to a continuing act.

15.3 People who have concerns about behaviour prior to the start date of the 2017 Parliament can raise a complaint using the current Scheme.

154 If someone wishes to report a criminal or civil offence, different time limits may apply depending on the nature of the offence. Anyone considering this action should seek legal advice or discuss this with the ISMA Service in Pathway 1 of the Procedure.

16 Responsibilities of the Parliamentary Community

16.1 All members of the Parliamentary Community should treat others respectfully and be aware of the types of behaviour that are unacceptable under this Policy.

16.2 The Behaviour Code encourages all members of the Parliamentary Community to speak up about unacceptable behaviour they experience or observe, including reporting concerns to their line managers as appropriate. Individuals are encouraged to seek advice from the specialist advisers provided by the ISMA Service in Pathway One of the Procedure.

16.3 Managers have a particular responsibility to develop and maintain a working environment in which people are treated with dignity and respect and intervene if they identify any sexual misconduct amongst their staff. Managers also have a responsibility for ensuring that any of their direct reports involved in a complaint of sexual misconduct (whether that be a reporter, responder or a witness) are signposted and encouraged to use the ISMA Service for advice and support.

16.4 Anyone who is involved in assisting with the Appropriate Measures Pathway or Formal Complaint Pathway, has a responsibility to provide accurate information and to maintain confidentiality throughout.

16.5 This Policy does not replace safeguarding obligations for all members of the Parliamentary Community. For example, if you are concerned about a vulnerable adult, you should report this to the Designated Safeguarding Lead as outlined in the Safeguarding policy.

1 Introduction: Sexual Misconduct Procedure – 3 Pathways

1.1 The Sexual Misconduct Procedure identifies three distinct pathways (see flow chart in appendix 1);

- Pathway 1: Independent Sexual Misconduct Advisory Service (ISMA Service)
- Pathway 2: Appropriate Measures
- Pathway 3: Formal Complaint

1.2 These pathways can be accessed independently or in the following combinations;

- Pathway 1: Can be used by all for advice, support and signposting, regardless of whether Pathway 2 or 3 are used.
- Pathway 2: Is an optional pathway for reporters who wish to have a facilitated intervention with the responder.
- Pathway 3. At any point during this pathway the reporter will have the option to seek resolution through Pathway 2 Appropriate Measures and the matter need go no further.

2 Pathway 1: Independent Sexual Misconduct Advisory Service (ISMA Service)

2.1 The ISMA Service is staffed by accredited and experienced Independent Sexual Violence Advisers (ISVAs) who will provide specialist support, advice and advocacy in relation to sexual misconduct and act as Case Managers.

2.2 Those contacting the ISMA Service will be logged anonymously or with identifying details, depending on the wishes of the individual, and their information will be kept confidential and assigned to a Case Manager.

2.3 The Case Manager will provide ongoing support and advice and signpost individuals to additional support if required.

2.4 One of the aims of the ISMA Service is to enable the reporter to make informed choices about the pathways they wish to pursue by putting them at the centre of decision-making in relation to their case.

2.5 Where risks to the reporter or others are identified, the Case Manager will complete a risk assessment and a management plan.

2.6 If individuals are unsure that what they have experienced is sexual misconduct or think the behaviour might also be related to other factors, they can still follow this pathway which will give them access to specialist advice and support related to sexual misconduct that will help in deciding the best course of action.

Pathway 1: Confidentiality

2.7 Confidentiality will be maintained in relation to contacts made via the ISMA Service, unless otherwise agreed. However, there may be circumstances where certain information may need to be shared with other parties' consistent with safety, a duty of care or with Parliament's safeguarding responsibilities.

2.8 In these circumstances, the Case Manager will seek the permission of the reporter and, if this is not granted, will need to weigh up the risk of potential further harm to them or others before sharing information, for example, in cases where someone is in immediate physical danger.

3 Pathway 2: Appropriate Measures

3.1 This pathway can be followed whether or not the reporter wishes to follow the formal complaint pathway.

3.2 At any time after contacting and receiving advice and support from the ISMA Service, the reporter may decide that they wish to take action to help remedy their situation through the Appropriate Measures Pathway. Any action taken via this route will be subject to an initial assessment to check that the Policy applies and a risk assessment will be carried out by the ISMA Service. This Pathway will not include an investigation. For this reason, although action may lead to resolution, this may be limited in scope.

3.3 Where necessary, the Case Manager in the ISMA Service will help broker and facilitate interventions.

3.4 Appropriate measure might include (non-exhaustive list):

- A facilitated telephone conversation between the reporter and the responder.
- Communication in writing from the reporter.
- A face to face meeting, facilitated by the Case Manager in the ISMA Service with the responder.
- Intervention by another appropriate individual, such as the manager of the responder.

Desired outcomes might include (non-exhaustive list):

- An apology from the responder.
- Acknowledgement of the behaviour by the responder.
- A behavioural agreement outlining what is considered appropriate/ inappropriate behaviour moving forward.
- Training:

- for the responder to increase awareness of inappropriate/appropriate behaviours, their impact and expectations going forward.
- for an area/team to deal with an inappropriate culture or to train a particular team, which doesn't target a particular individual.
- for the reporter to help them cope and deal with any future inappropriate behaviours.

3.5 The reporter may decide at any time to end or halt the progress of this pathway.

3.6 If a resolution is agreed under this pathway, no finding of fault will be recorded in respect of the responder. Details of both parties will be kept confidential. Mechanisms will be put in place to protect confidentiality of all the parties involved throughout the three pathways of the procedure and all parties will need to respect confidentiality.

Pathway 2: Confidentiality

If the reporter requests Appropriate Measures it will be necessary to involve the responder and other members of the Parliamentary Community as necessary. These individuals will be contacted only with the permission of the reporter.

4 Pathway 3: Formal Complaint

Considerations

4.1 The key principles of any investigation will be fairness, due process and proportionality:

- The reporter, responder and any witnesses will be treated fairly, with dignity and confidentiality.
- The responder will be provided with details of the allegations made against them and by whom and will be offered appropriate support.
- The standard of proof will be on the balance of probabilities.
- Efforts will be made to avoid any re-traumatisation of the reporter.

4.2 It is recognised that there may be occasions when safeguarding and protective obligations, including the duty to protect the reporter from retaliation or victimisation, may inform the degree of disclosure to the responder of certain details of some reports, in tandem with the principles of natural justice. Factors to consider when making this decision will be:

- The immediate safety of the reporter, such as risk of violence or retaliation.
- The immediate safety of the responder.

- Whether there is a substantial risk that the responder would make efforts to interfere with or undermine an investigation.
- Whether a reasonable request has been received from the police or other authority with statutory or investigatory powers to require the information.

4.3 At each stage in the process evidence will be sought and be considered. Decisions for further evidence gathering will need to be carefully considered as the preference will be to interview the parties only once, to avoid the risk of potential re-traumatisation and prolonging the process.

4.4 Under Pathway 3, an investigator will also escalate a case if they believe the complaint of sexual misconduct might amount to a major criminal offence. In that case, the Scheme will share anonymised information with the police under a protocol that is designed to make sure that our internal investigation does not inadvertently prejudice a criminal investigation. The police will be responsible for deciding whether they need to investigate the matter further, and this may include asking for identifying information. Decision-makers may also have information sharing requirements under their own policies.

Investigation process

5 Stage 1: Initial Assessment

5.1 The Investigator receives a written complaint from the reporter using the Sexual Misconduct Complaints Form.

5.2 The Investigator makes an initial assessment of the complaint to determine whether the Policy applies. To do this, they will check that the complaint meets the conditions for being reported under this Policy and Procedure (e.g. that the complaint is made by and against people who are covered by this Policy).

5.3 The outcome of the initial assessment could be as follows:

| Case to answer | No case to answer | |
|---|---|---|
| The complaint can be made under this Policy and the incident(s) warrants further investigation (i.e. they may be sexual misconduct). | The complaint does not constitute sexual misconduct. | The complaint cannot be made using this Policy because it does not meet the relevant conditions. |
| The investigator will notify both parties and their respective decision-making bodies. The ISMA Service remains available to offer ongoing support and advice. | The investigator will notify the reporter and the responder. The ISMA Service remains available to offer ongoing support and advice. | The investigator will notify the reporter and the responder. The ISMA Service remains available to offer ongoing support and advice. |

6 Stage 2: Formal Assessment

6.1 Before starting a formal assessment, the specialist investigator will contact the appropriate decision-making body. These discussions might involve sharing:

- An assessment plan;
- The approach for evidence gathering (e.g. including the timetable, list of witnesses, any documentation to be requested)

6.2 A letter is sent to the relevant parties to start the evidence-gathering process.

6.3 In the case of complaints made against Members or Peers, where the initial assessment identifies that there is a case to answer, this will be passed to the relevant Commissioner for Standards for the responder. They will commission the same or another investigator from the Independent Investigation Service to undertake the full assessment and will have oversight of the investigation.

6.4 The Investigator interviews both parties and any witnesses to collect any evidence and understand the circumstances of the complaint, any actions already taken and whether there are any steps that could be taken to create a resolution. Witnesses will be given the opportunity to supply evidence.

6.5 The outcome of a formal assessment is a written report with details of the complaint and the evidence that has been gathered relating to the complaint, the outcome that the reporter wants to achieve and whether the information in the complaint is accurate.

6.6 The assessment will be sent to the relevant decision-making bodies, identifying recommendation of assessment, reasons for assessment and details of notifications.

6.7 The outcomes of the assessment may be:

- The complaint is upheld – there is sufficient evidence on the balance of probabilities to determine that sexual misconduct has occurred.
- The complaint is not upheld – the evidence suggests that sexual misconduct did not occur or the evidence is insufficient to determine whether sexual misconduct has occurred.

7 Stage 3: Decision and Action

7.1 Once the investigator has completed the formal assessment, the decision-making body for the responder will review the report. If there has been an assessment of sexual misconduct by the investigator, the decision-making body will use their own policies and procedures to deal with the matter including any additional investigations and imposing sanctions.

7.2 Potential sanctions are outlined in the table in Appendix 1 of this Procedure. Decisions about sanctions should take into account the following factors:

- The reporter's wishes (as documented in the Independent Investigation Service report).
- The decision-making body's legal and internal obligations.
- The severity of the sexual misconduct in question.
- Any precedents from comparable cases or previous complaints about the individual's behaviour.

8 Pathway 3: Confidentiality

8.1 Complaints under the initial or formal assessment will be treated confidentially and will only be discussed with those who are legitimately involved i.e. the Investigation Service and the decision-making bodies. Those involved in the complaint as a reporter, a responder or a witness should treat the matter as strictly confidential.

8.2 Complaints to the Investigation Service cannot be raised anonymously (See section 4 the procedure on considerations).

8.3 During the course of initial or formal assessments, relevant extracts of statements or minutes from the meeting with the reporter, responder and witnesses may be made available to both the reporter and responder to ensure that all parties involved can understand and respond to relevant evidence provided by others. Copies of relevant documentation (e.g. email or other correspondence, social media posts) may also be provided. However, this will be in line with the consideration as outlined in section 4 of the procedure.

9 Aggravating factors

9.1 If the following aggravating factors are uncovered in the course of any fact finding or investigation, they should be taken seriously and may impact on the sanctions even if the complaint is not upheld:

9.1.1 Breaches of the Behaviour Code.

9.1.2 Abuses of power/authority.

9.1.3 Retaliation or victimisation.

9.1.4 Breaches of agreed Appropriate Measures or sanctions.

9.1.5 Breaches of confidentiality, refusal to engage in the Procedure, or sharing the name of the reporter.

9.2 If during an investigation, the reporter or responder resigns or leaves, this will be recorded. However, the investigation will continue until it is concluded.

10 Arrangements for initial and formal assessment meetings

10.1 This section of the Procedure provides more detailed information about how initial and formal assessment meetings are conducted. It contains information for reporters, responders and witnesses.

Notification of meetings

10.2 If you are a reporter, responder or a witness involved in an assessment, you may be invited to meeting(s) with the investigator. The investigator will always provide written notification of meetings, including the time, date and place of the meeting, the purpose of the meeting and any relevant information, including documentation and witness statements, if appropriate.

The right to be accompanied

10.3 If you are a reporter or responder, you can be accompanied in any meetings under this Procedure by a colleague from the Parliamentary Community, the case manager from the ISMA Service, an interpreter or a trade union representative.

10.4 Prior to any meeting and with at least one day's notice, you should confirm to the Investigator who will be accompanying you to the meeting.

10.5 The following conditions apply to your choice of companion:

- Colleagues are not obliged to act as a companion and may decline a request if they wish.
- The Investigator will permit a companion who is not a colleague, such as the case manager from the ISMA Service or trade union representative where appropriate (e.g. to provide support for someone who may have difficulty understanding written or spoken English or who may have particular needs as a result of a disability).
- If your choice of companion is unavailable when the meeting is scheduled and will not be available for more than 5 working days, the Investigator may ask you to choose someone else.
- Companions can make representations, ask questions, and sum up your position, but are not allowed to answer questions on your behalf. You may confer privately with your companion at any time during a meeting.

If you are interviewed as a witness, you would not usually be accompanied in the meeting. However, the Investigator will permit you to have a companion if appropriate to the circumstances (e.g. if you have difficulty understanding written or spoken English or have particular needs as a result of a disability).

11 Reviews

11.1 If an initial assessment finds no case to answer or a formal assessment at the investigation stage does not uphold a complaint of sexual misconduct the reporter

can ask the Independent Investigation Service to review the outcome. This review will be conducted by an investigator who has had no previous involvement in the case.

11.2 A review can only be requested on the following grounds:

- Whether the correct procedure for assessment was followed;
- Whether substantial new evidence has since become available.

11.3 For complaints against a Member or a Peer, initial assessments will be reviewed by the relevant Commissioner for Standards. The reporter will be able to contribute to this review by putting forward any evidence that they feel may have affected the assessment finding in relation to:

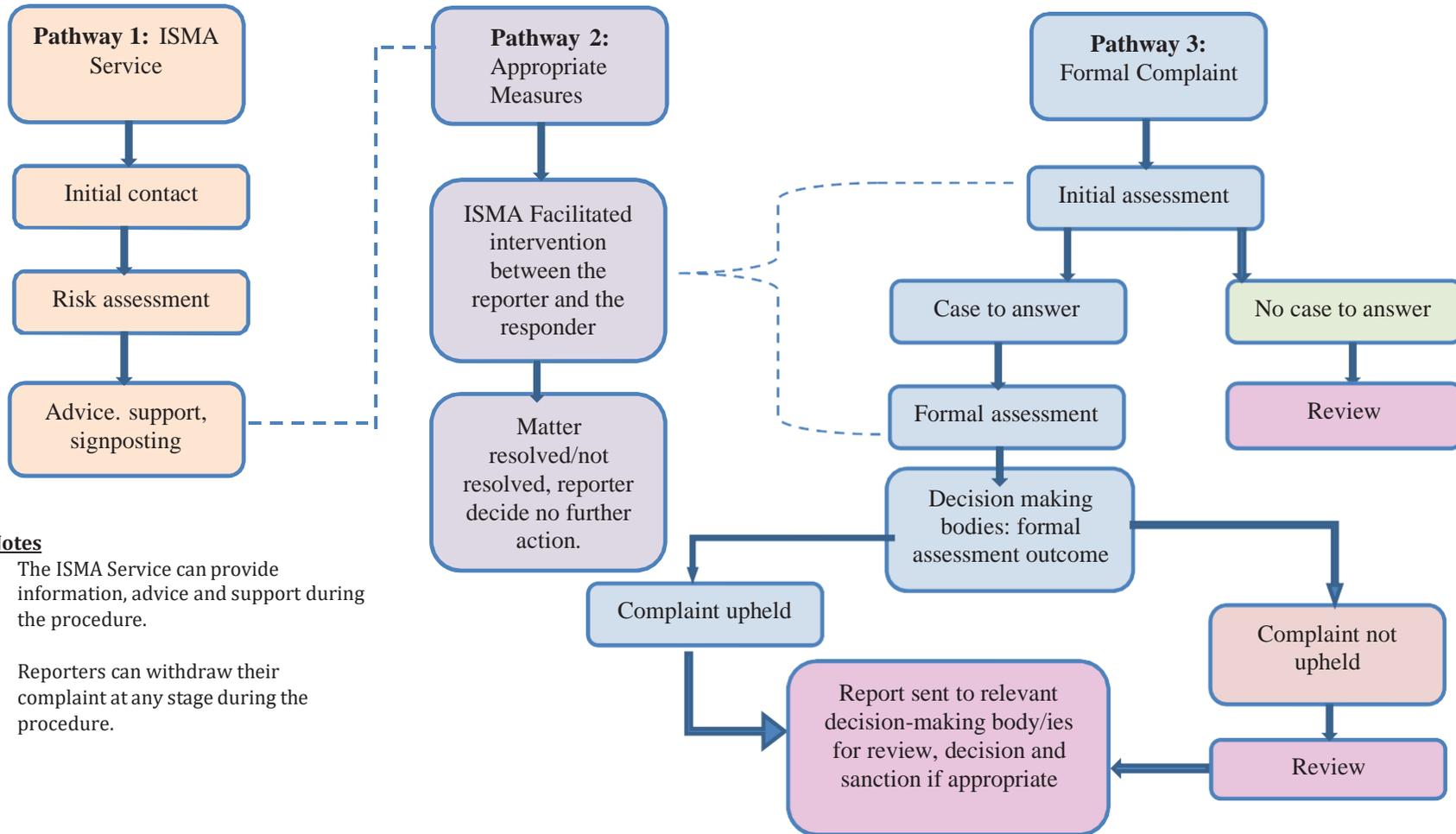
- Whether the correct procedure for assessment was followed;
- Whether substantial new evidence has since become available.

11.4 If a review finds that further evidence is admissible, the case will generally be re-assessed by the original investigator, taking into account the additional evidence. If the review finds that the correct procedure had not been followed or a different type of investigation is needed, the case may be re-assessed by a different investigator.

11.5 If a formal assessment upholds a complaint of sexual misconduct at the investigation stage, this will be reviewed by the decision-making body (e.g. via a hearing/interview under their own policies and procedures). The respondent will have an opportunity to represent any concerns they had about the investigation conducted by the Independent Investigation Service as part of this process.

12 Timescales

| Stage of procedure | Responsibility | Timescales |
|--|--------------------------------|---|
| Acknowledgement of written complaint and notification to responder | Investigator | Within 3 working days on the reporter's request |
| Notice of meeting with investigator | Investigator | A minimum of 3 working days of the meeting |
| Provision of draft minutes from meeting | Investigator | Within 3-5 working days of the meeting |
| Agreement of minutes of investigation or appeals meeting | Reporter, responder or witness | Within 10 working days of receiving the minutes |
| Application to appeal | Reporter, responder or witness | Within 10 working days of receipt of the initial or formal assessment |
| Acknowledgement of appeal | Investigator | Within 3 working days of receipt of the appeal application |
| Appeal review and decision | Reviewing investigator or PCS | Subject to variation, but usually within 10 working days of receipt of the appeal application |



Notes

1. The ISMA Service can provide information, advice and support during the procedure.
2. Reporters can withdraw their complaint at any stage during the procedure.

Appendix 2: Table of possible sanctions

| Responder | Decision making body | Sanction | How sanctions are imposed |
|---|--|---|--|
| MP/Peer | The Commissioner for Standards (Commons or Lords) in conjunction with the relevant committee of the Houses for the most serious cases or where alternative resolutions have failed | Rectification to restore and maintain working relationships, including, but not limited to, an apology, behaviour agreement and compulsory training | With agreement by all parties or imposed by the Commissioner for Standards (Commons or Lords) |
| | | Suspension/recall (in the House of Commons) Suspension/expulsion (in the House of Lords) | The Commissioner for Standards (Commons or Lords), in conjunction with (Sub) Committees of the relevant House, a Resolution of the relevant House, and the provisions of the Recall of MPs Act 2015, and the House of Lords (Expulsion and Suspension) Act 2015 |
| An MP's or Peer's employee or someone employed by a political party to work on the Parliamentary Estate | MP, Peer or political party who employs them (or otherwise engages them—e.g. intern, volunteer, work experience agreement or contract for services) | Rectification to restore and maintain working relationships, including, but not limited to, an apology, behaviour agreement and compulsory training | Agreed by all parties or imposed by employer |
| | | Disciplinary sanctions, which may include a Warning, Final Warning, Demotion or Dismissal | By employer |

| Responder | Decision making body | Sanction | How sanctions are imposed |
|--|---|---|---|
| Employees of the House of Commons Administration, House of Lords Administration, Parliamentary Digital Service | House Authorities, through the appropriate management chains | Rectification to restore and maintain working relationships, including but not limited to an apology, behaviour agreement and compulsory training | Agreed by all parties or imposed by employer |
| | | Disciplinary sanctions, which may include a Warning, Final Warning, Demotion or Dismissal | By employer |
| Relevant passholders | Relevant officials and processes for suspending or revoking parliamentary— the passholder’s employer may also be notified, where relevant | Rectification to restore and maintain working relationships, including but not limited to an apology, behaviour agreement and compulsory training | With agreement by all parties |
| | | Withdrawal of pass | Relevant officials and processes for revoking parliamentary passes - the passholder’s employer may also be notified, where relevant |

