

# Extending the Independent Complaints and Grievance Scheme

## Report from the House of Commons Commission

Published 15 July 2019 (HC 2554)

### Purpose

1. This report has been prepared to inform the House’s consideration of a proposal to extend the current Independent Complaints and Grievance Scheme (ICGS) to non-recent cases and to people who are no longer members of the Parliamentary Community. The Commission invites the House to give effect to the recommendations set out in paragraph 8.

### Background

2. The ICGS Delivery Report was endorsed by the House in a Resolution of 19 July 2018.<sup>1</sup> The ICGS Steering Group considered the issue of how to treat historic or non-recent complaints in Chapter 7 of that report. At that time, the Steering Group decided that, although the ICGS would be accessible to all, incidents that occurred prior to June 2017 would be considered using the process available at the time that the incident had taken place, due to the fact that "the further back in time that the incident occurred, the quality of recollection and the possibility of achieving natural justice recedes".<sup>2</sup>
3. Three months after the ICGS was established, Dame Laura Cox's Report "The bullying and harassment of House of Commons staff" was published, which highlighted the extent of alleged bullying, harassment and sexual misconduct that had occurred, for many years, in the House of Commons.<sup>3</sup> The House of Commons Commission accepted Dame Laura's recommendations, including her recommendation that cases of bullying, harassment and sexual misconduct that occurred prior to June 2017—the start of the current Parliament—should have their complaints considered.

### The Commission’s Actions

4. The Commission has agreed a set of principles that underpins its proposal to include non-recent cases of bullying, harassment and sexual misconduct into the current ICGS:
  - those eligible to use the current ICGS should be extended to include those who would have met the current definition of “parliamentary community” at

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<sup>1</sup> [ICGS Delivery Report](#)

<sup>2</sup> [ICGS Delivery Report](#), para 88

<sup>3</sup> [The bullying and harassment of House of Commons staff: Independent Inquiry Report](#), Dame Laura Cox DBS, 15 October 2018

the time of the events about which they now wish to complain (the current definition is set out in the ICGS Delivery Report)<sup>4</sup>;

- “parliamentary work” would be defined in the same way as those definitions set out in the ICGS Delivery Report<sup>5</sup>;
  - the current definitions of bullying, harassment and sexual misconduct would apply to all non-recent cases since such conduct would have been unacceptable at any time, even if there were no written policies in place that expressly prohibited bullying, harassment, or sexual misconduct;
  - the process would be independent, impartial, thorough and fair, and evidence led;
  - guidance and support would be given to complainants and respondents;
  - the independent assessor/investigator would have relevant experience;
  - the Parliamentary Commissioner for Standards would have an oversight role on complaints involving Members and former Members, as is the case for current cases; and
  - the time limit beyond which respondents cannot bring forward non-recent cases should be considered by the 18-month review of the scheme.
5. The proposal follows Dame Laura Cox’s recommendations, as set out in paragraphs 312 to 349 of her report. In May 2019, the Commission unanimously agreed to consult on their approved proposal for dealing with non-recent cases, by using the existing ICGS, and employing specialist investigators for both assessing and investigating non-recent (and recent) cases, whose key elements may be summarised as:
- The complainant would initially call one of the Helplines (either the Independent Bullying and Harassment Reporting Helpline or the Independent Sexual Misconduct Advisory Service) and be offered support, including access to the Parliamentary Health and Wellbeing Service;
  - Appropriately skilled and experienced investigators would be employed to investigate non-recent (and current) cases;
  - By using the ICGS, non-recent cases would be treated in the same way as current cases throughout the whole procedure;

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<sup>4</sup> [ICGS Delivery Report](#), para 4.2

<sup>5</sup> [ICGS Delivery Report](#), page 52, annex B, para 4.4

- The ICGS allows for informal resolution at any stage and, as Dame Laura Cox states in paragraph 336 of her report, not all cases are disputed. An apology might be the informal resolution that the complainant is seeking.
6. The responses to the Commission’s public consultation were overwhelmingly supportive of its preferred option.<sup>6</sup> Respondees included current and former staff of MPs and the House service, the Centre for Women’s Justice, the Trade Union Side, the Equality and Human Rights Commission, and the Committee on Standards in Public Life. Accordingly, the Commission ratified its decision on 24 June 2019 and the Leader of the House undertook to work with the other parties to agree a motion, in consultation with the Commission, that would facilitate this change as soon as possible. Subject to approval by the House, implementation work will take place over the summer, including the recruitment of additional expert independent investigators, with the intention of opening up the Scheme to non-recent cases from autumn this year.
  7. The Commission also agreed with the view of Gemma White QC, who was responsible for the independent inquiry into the bullying, harassment and sexual misconduct of Members and Members’ staff and who proposed that former employees of existing Members of Parliament should be able to bring a formal complaint for investigation and adjudication under the ICGS. This is currently restricted to those who are currently in post.<sup>7</sup> The Commission has therefore agreed that former members of the parliamentary community should be able to have their complaints heard under the ICGS. This decision will be actioned alongside the decision to introduce the policy on non-recent cases, with the same implementation date.
  8. The following amendments are proposed to the ICGS:
    - (1) To amend the ICGS to:
      - a. Replace Section 5.3 of the Bullying and Harassment Policy with “Complaints predating the start of the 2017 Parliament can also be investigated under this policy and will be assessed using the current accepted behaviour regime.”;
      - b. Replace Section 15.2 of the Sexual Misconduct Policy with “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”;
      - c. Replace Section 15.3 of the Sexual Misconduct Policy with “People who have concerns about behaviour prior to the start date of the 2017 Parliament can raise a complaint using the current scheme”;
      - d. In the Bullying and Harassment Policy, in para 4.1, replace “any member” with “any present or former member”, in para 4.2, replace “all

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<sup>6</sup> The Commission held a public [consultation](#) between 24 May and 14 June 2019.

<sup>7</sup> See Annex to the [Independent 6-month review: UK Parliament Independent Complaints and Grievance Scheme](#), Letter to Alison Stanley CBE FCIPB from Gemma White QC, 31 May 2019

those working for or with” with “all those who have worked for or with or who are currently working for or with”.<sup>8</sup>

9. The Accounting Officer should be directed to meet those additional costs of administering the ICGS, once more people have access to the scheme.
10. The Commission considers that non-recent cases against any former member of the parliamentary community ought to be considered under the ICGS but recognises that none of the proposals in this paper will apply to staff of the House of Lords Administration or to Members of the House of Lords or their staff, until the appropriate Lords authorities agree to these or similar arrangements operating alongside the Lords’ own arrangements for dealing with complaints of bullying, harassment or sexual misconduct (whether against members, members’ staff or staff of the House).

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<sup>8</sup> See paragraph 11 in relation to the House of Lords.