

Cox III: Consultation Paper

Background

The Dame Laura Cox report on [the bullying and harassment of House of Commons staff](#) was published in October 2018. It was followed by other reports, include Gemma White QC's on [bullying and harassment of past and present staff of MPs](#), as well as Members themselves, and [an independent review](#) of Parliament's Independent Complaints and Grievance Scheme following its first six months of operation carried out by Alison Stanley.

Dame Laura made three central recommendations, two of which have been successfully implemented. This consultation paper concerns the third recommendation:

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.

On 10 June 2019 the House of Commons Commission announced the appointment of a House staff team to lead producing options for implementation of the third recommendation. The team was assisted by an external expert advisory panel composed of: Laura Robinson (barrister specialising in employment matters, 12 King's Bench Walk), Dr Sue Griffiths (Executive Director of Global Partners Governance and former clerk), Peter Blausten (former Civil Service Commissioner), Jane Burgess (lay member of the Standards Committee) and Professor David Howarth (Professor of Law and Public Policy, University of Cambridge and former MP).

Following an extensive period of consultation and engagement, both internally and externally, the team presented five options for implementation to the Commission on 10 February 2020.

The Commission was unanimous in its preferred option and is now putting that option forward for public consultation.

The Preferred Option

Independent Expert Panel ("Parliamentary Tribunal")

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 Chair would be chosen from amongst the members of the panel. The panel would be able to draw on expert knowledge from House staff and specialists if needed. It would also be possible to have a larger number of potential panel members who could be called in to determine cases as appropriate to their specific expertise and experience.

In cases that proposed sanctions requiring action by the House, the independent expert panel would report directly to the House.

The flowchart annexed to this document explains how this would work.

Summary

This is the option which commanded most widespread support in the consultations. It meets the requirement of a process which is independent of MPs. It retains an appropriate role for the PCS but also brings in a greater range of external expertise. It is clear and easy to follow.

Questions to be decided

Procedure on the Floor

It is anticipated that most complaints would be resolved before the independent panel comes into play. Even fewer would lead to a decision that the sanction of suspension or expulsion was warranted. In such cases, 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.

The staff group pointed to a concern that at that stage there was a potential imbalance with neither the lay panel nor possibly the complainant (unless also a Member) able to participate while the respondent and other MPs could take part in the debate. To address this anomaly, the working group put forward two possible solutions:

- The questions on agreeing the report and the recommendation from the independent panel could be put without debate (this is the process followed in the Lords); or
- A spokesperson from the Commission would be present at the debate to speak for the integrity of the process.

Composition of the independent panel

A key advantage of the independent panel is that it is designed to bring further expertise into the process. The staff group identified relevant areas of expertise for panel members as HR, employment law, bullying and harassment cases, and sexual harassment cases, supplemented by advice from House staff and specialists as needed.

There is a 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. The Commission would be interested in hearing views on this point.

Other Options

The Commission were presented with four other options:

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

The first three of these options involve a continuing role for the Committee on Standards which was rejected as insufficiently independent during the staff group's discussions with stakeholders.

The IPSA model was widely regarded as disproportionate and received little support during the consultations.

Submitting to the Consultation

Your views are invited on the following 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?
- 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?
- Should the independent expert panel include a former Member?

The public consultation will be open until midnight on Sunday 8 March.

You can send your response via email to HOCCCommission@parliament.uk or by post to Governance Office, Committee Corridor, House of Commons, London, SW1A 0AA.

As responses to the public consultation will be shared with Commission members, as well as the staff team on independence, and the Commission secretariat, you should not send us any information you wish to remain private.

The Proposed New Decision Process

Most cases will be concluded at an early stage. At present, the PCS can apply a limited number of sanctions (as she does under the present system). If the Committee on Standards recommends that the range of sanctions be increased, with more intermediate sanctions available to the Commissioner, it is likely that the number of cases reaching the latter stages of the process will be even smaller.

