



Independent
Complaints
and Grievance
Scheme

Sexual Misconduct Policy for UK Parliament

parliament.uk

Edition 2021

1. Introduction and aims

1.1 All members of the Parliamentary community are expected to treat others with dignity, courtesy and respect.

1.2 Our Behaviour Code, this policy, the Bullying and Harassment policy and the associated procedures and guidance created and amended from time to time by the Independent Complaints and Grievance Scheme team (the “ICGS team”), the Parliamentary Commissioner for Standards, the Independent Expert Panel and other decision-making bodies 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. Sexual misconduct is unacceptable in all circumstances.

1.3 The ICGS applies across the Parliamentary community.

- In respect of members of the House of Lords and their staff, the ICGS is implemented via the House of Lords Code of Conduct.¹ Though the definitions of sexual misconduct set out in this policy are common to the Parliamentary community, the processes described in this policy and the associated procedures do not directly read across to the House of Lords Code of Conduct.
- In respect of members of the House of Commons, this policy and the associated procedures apply with some modifications. The Parliamentary Commissioner for Standards has oversight of investigations of allegations of sexual misconduct by Members of Parliament. The definition of sexual misconduct set out in this policy is common to the Parliamentary Community. Once the independent investigator’s initial assessment has been completed, the investigation will be overseen by the Commissioner in accordance with the Standing Orders of the House

¹ The House of Lords Code of Conduct can be found here: www.parliament.uk/hl-code

of Commons and with any agreement made between her and the ICGS team.

1.4 This policy relates specifically to sexual misconduct. It sets out who the policy applies to, the conduct covered by the policy and certain other important matters. Details of the procedures for investigation of a complaint under this policy may be obtained from the ICGS team. If an Independent Investigator recommends that a complaint should be upheld under this policy, the matter will be referred to the relevant decision-making body (the employer or another body, depending on the identity of the respondent). Different bodies will have, and use, their own internal policies and procedures to reach a decision.

1.5 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. Abuse of power will be a relevant consideration in deciding the seriousness of misconduct. Sexual misconduct is unacceptable in all circumstances, and may in some cases also constitute a criminal offence.

1.6 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 (sex, race, disability, age, sexual orientation, religion and belief, marriage and civil partnership, pregnancy and maternity, and gender reassignment). Characteristics such as race, 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.

1.7 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.

1.8 The aims of this policy and the associated procedures 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;
- Ensure that information about sources of support is made available to anyone who experiences sexual misconduct or who is accused of sexual misconduct.

2. Definitions

2.1 The definitions below will be used for determining whether any behaviour reported under this policy constitutes sexual misconduct.

2.2 All behaviour that constitutes sexual misconduct is a breach of the Behaviour Code. However, not all breaches of the Behaviour Code will constitute sexual misconduct.

What is Sexual Misconduct?

2.3 Sexual misconduct describes 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. Any

of these behaviours that will be treated as a potential breach under this policy, 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 for Parliament is separate from and additional to any legal process.

2.4 The following behaviours may constitute sexual misconduct if they occur inappropriately or without explicit and freely given consent. This non-exhaustive list sets out examples in the categories of verbal, non-verbal/environmental and physical sexual misconduct.

2.5 **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, in person or by telephone.
- 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.

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

- obscene material of a sexual nature in any format (including posters, graffiti, emails, messages, clips or images sent by mobile device or posted on the internet)
- Inappropriate gifts of a sexual nature.
- Inappropriate advances or stalking via social media.
- The circulation or displaying of pornography.
- Sharing private sexual images of another person without consent.
- Repeatedly propositioning someone in writing (including through text or social media chat groups).
- Repeatedly following or tracing the movements of another person without good reason.

2.7 **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.
- Gropping, grabbing, kissing or fondling without consent.
- Indecent exposure (masturbation, nudity) and acts of voyeurism or exhibitionism.
- Attempting or engaging in sexual intercourse or a sexual act without consent.

2.8 It is not illegal in the UK to pay for sex. However, for individuals to do so when they are acting in a parliamentary capacity or engaged in activity connected to their membership of the Parliamentary Community (whether it takes place in the UK or overseas) is considered unprofessional and inappropriate. It is therefore a breach of the Behaviour Code and constitutes sexual misconduct for the purposes of this policy.

What does the law say about sexual misconduct?

2.9 The Equality Act 2010, section 26(2) and (3) defines sexual harassment, which is one form of sexual misconduct. It includes conduct by A of a sexual nature which has the effect of violating B's dignity or creating an intimidating, hostile, degrading or offensive environment for B, even if A did not intend this. Whether conduct constitutes sexual harassment will depend on both B's perception and whether it is reasonable for B to have perceived A's conduct in that way. It may also be sexual harassment by A if A treats B less favourably because B did not submit to A's sexual advances.

2.10 Some forms of 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 equivalent legislation in Scotland and Northern Ireland. Potential criminal

offences include sexual assault, rape, stalking or disclosing private sexual images to cause distress ('revenge pornography').

Consent

2.11 Under the Sexual Offences Act 2003, a person is regarded as consenting to sexual activity if (a) they agree to it by choice and (b) have the freedom and capacity to make that choice. This policy uses the same definition of consent in relation to sexual misconduct.

2.12 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.

2.13 Consent must be present every time a person (A) engages in sexual activity with another person (B). A must stop if they are not absolutely sure that they have B's consent. Any prior consensual sexual activity or relationship between A and B does not, in and of itself, constitute B's consent to further sexual activity with A. B may withdraw consent at any time (including during a sexual act) and consent can never be implied, assumed or coerced.

3. Terms used in this policy

- **Complainant:** This is an individual who reports or makes a complaint of sexual misconduct through the ICGS helpline.
- **Respondent:** This is an individual who is accused of sexual misconduct.
- **Report:** This is when a complainant reports an incident to the ICGS helpline.
- **Complaint:** This is when a complainant chooses to pursue their complaint through the ICGS team after reporting it to the helpline.
- **Sexual misconduct:** Any act that is covered by this policy, including sexual harassment and sexual violence.
- **Independent Sexual Misconduct Advisor (ISMA):** a specialist advisory service offered by the ICGS helpline, offering specialist support, advocacy and signposting in relation to sexual misconduct.
- **ICGS helpline:** This is the service for reporting incidents of alleged sexual misconduct. It is also a source of information, advice and support for complainants and respondents, and for anyone else who has experienced, witnessed or is aware of bullying, harassment or sexual misconduct. Callers who have experienced sexual misconduct will be offered the support of an ISMA. The helpline also retains confidential records and provides regular anonymised reports about the levels of helpline usage and the types of issues raised, to monitor the quality of the service, for service improvements and to inform the development of awareness-raising campaigns and cultural change initiatives.

- **ICGS team:** This is the bicameral team which is responsible for managing the procedures under this policy if a complainant decides that they want to take further action in relation to an alleged incident of sexual misconduct (as opposed to using the ICGS helpline to report an incident or access support). The ICGS team also retains confidential records and provides regular reports about the levels of use and types of complaints investigated and resolved, to monitor the quality of the service and inform the development of awareness-raising campaigns and cultural change initiatives.
- **Independent Investigator:** Any formal complaint is allocated to an Independent Investigator, who is responsible for undertaking an initial assessment of the complaint to determine whether the allegation should proceed to a formal assessment. They are also responsible for undertaking a formal assessment of the complaint, based on gathering further evidence from those involved. Independent Investigators are not employees of either the House of Commons or the House of Lords; they contract with the Houses and are selected for specialist expertise and training in relation to complaints of sexual misconduct.
- **Decision-making bodies:** The organisations within the Parliamentary Community with responsibility for taking a decision in relation to a complaint made against a particular respondent. For example, this might be the respondent's employer, or the Parliamentary Commissioner for Standards (and/or the Independent Expert Panel) if the respondent is an MP. Decision-making bodies, and not the ICGS team, are responsible for deciding and implementing appropriate actions and/or sanctions following an independent assessment of a complaint.

4. Scope

4.1 This policy applies to acts of sexual misconduct by and against any member of the Parliamentary Community on the Parliamentary estate or elsewhere in connection with their Parliamentary activities.

4.2 For the purposes of this policy, 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. This includes:

- Members of Parliament (MP) or Members of the House of Lords;
- Employees of MPs or Lords 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;
- Employees of the House of Lords;
- Employees of other Parliamentary organisations (for example, CPA UK, BGIPU, an All Party Parliamentary Group)
- 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

4.3 Under this policy, a person may report and make a complaint about sexual misconduct where both the complainant and the respondent were members of the Parliamentary Community at the time when the alleged sexual misconduct took place, whether or not they remain members of the Parliamentary Community at the point when the complaint is made (but a complaint will not be investigated after the death of the respondent).

4.4 The work of the Parliamentary Community is broad and may 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 applies to behaviour by members of the Parliamentary Community in any circumstances relating to their Parliamentary work, regardless of location.

How does this policy deal with multiple allegations of sexual misconduct?

4.5 Sexual misconduct may be:

- by an individual against an individual or against several people, or
- by several people against an individual or against several people.

4.6 This policy can be used to report and investigate any allegation of sexual misconduct on an individual or collective basis (e.g. where a group of people allege sexual misconduct by the same respondent). Where complaints are made collectively, all complainants must provide consent for their evidence to be included in the collective complaint. A complainant may still choose to make an individual complaint separately, if they would prefer not to be part of a collective complaint.

4.7 Where someone makes a complaint against several people, this may be managed as a single investigation or as multiple separate investigations relating to each respondent. The ICGS team will decide in such a case

whether to allocate the investigation to a single Independent Investigator or to more than one. In either event, the Independent Investigator will consider the case against each respondent on an individual basis when making their assessment of the evidence.

4.8 Where several complaints are made independently about one person, each of these will be managed on an individual basis, although the ICGS team may make provision for oversight of all the complaints to ensure that they are consistently treated, and evidence obtained from a witness in one complaint may be used, by agreement, for the purposes of another complaint. The decision-making body with responsibility for the respondent will respond to each report separately, but may also take into consideration previous findings when deciding on an appropriate course of action or sanctions.

How does this policy work alongside other ways of reporting sexual misconduct?

4.9 This policy is not intended to affect the ability of any individual to report incidents of sexual misconduct to the police, their employer, an employment tribunal or a political party. Making use of the specialist advice available may help individuals to come to a decision that they judge to be right for them. It does not displace any legal or contractual remedy available to any person.

4.10 Where a complainant chooses to use another policy to make a complaint of sexual misconduct (for example, if a complaint relating to an MP is made to a political party), or where the complainant has previously brought a complaint of the same, or substantially the same, conduct through another policy or through legal proceedings, the ICGS team reserves the right not to investigate the same incident under this policy.

4.11 Where someone has reported an alleged criminal offence to the police and has made a complaint under this policy concerning the same facts, the

circumstances of the case will be considered, to determine whether it is appropriate to investigate the matter under this policy at the same time, or whether action under this policy should be paused until the criminal investigation is complete.

4.12 This policy does not affect safeguarding obligations for all members of the Parliamentary Community. If you are concerned about behaviour towards a child or vulnerable adult, you should report this to the Designated Safeguarding Lead, as outlined in the Safeguarding policy. The ICGS helpline, independent investigators and the ICGS team will also carry out risk assessments and have agreed escalation processes in cases where someone is at risk of harm that cannot be mitigated in another way.

What about malicious or vexatious complaints of sexual misconduct?

4.13 We require all individuals involved in a complaint made under this policy to act with integrity and provide accurate information. False accusations of sexual misconduct, while rare, can have serious consequences.

4.14 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.

4.15 If someone makes a complaint as a result of a genuine mistake or misunderstanding, this will not be a malicious or vexatious complaint. Likewise, if the outcome of an initial or formal assessment under this policy is a recommendation not to uphold the complaint (i.e. the conduct is not found to be sexual misconduct) it should be emphasised that this would not in itself mean the complaint will be regarded as malicious or vexatious.

4.16 For an investigation to indicate that a complaint may be malicious or vexatious, there would have to be evidence of manifestly false accusations and / or deliberate intent to discredit the respondent. Where the Independent Investigator finds that a complaint was malicious, vexatious or deliberately false, based on the evidence gathered by the Independent Investigator, the decision-making body for the complainant will be notified. They will then deal with the matter in accordance with their own policies and procedures, which may include disciplinary action or other sanctions.

5. Victimisation

5.1 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.

5.2 If victimisation or retaliation are uncovered in the course of an investigation, they will be taken seriously.

6. Timescales for reporting incidents of sexual misconduct

6.1 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. However, there may be times when a complainant 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. There is no time limit for complaints of sexual misconduct.

6.2 There may be times when a complainant does not want to or feel able to make a report soon after an alleged incident or incidents of sexual misconduct. Where a lengthy period of time has elapsed between the most recent incident and a report or complaint being made, as part of the initial assessment, the Independent Investigator will examine the nature of any evidence available to determine whether this is likely to be sufficient to proceed with a formal assessment. For example, in circumstances where there is no contemporaneous evidence of an incident taking place and/or where witnesses have since left the Parliamentary Community, it may be difficult to gather sufficient evidence to make a formal assessment of the complaint.

6.3 If someone wishes to report a criminal offence or make a claim through the civil courts, 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 ICGS helpline.

7. Factual accuracy checks

7.1 Once the Independent Investigator has considered all the evidence and prepared a draft formal assessment report, a copy of the draft must be sent to the complainant and the respondent. This is an opportunity for both parties to check that facts and dates are correct and request corrections, raise concerns if relevant evidence has not been considered or relevant witnesses not interviewed, or raise other concerns about the process of the investigation. The parties will normally have 14 days to raise any issues. The check is **not** an opportunity to challenge the Independent Investigator's reasoning or recommendations, unless they are unreasonable or perverse. If the ICGS team (or in the case of an MP the Parliamentary Commissioner for Standards) considers that there are significant errors or omissions in the

report or concurs with the view that the findings are unreasonable or perverse, the report may be rejected and a new Independent Investigator appointed to carry out the formal assessment.

7.2 Any further action, if either party is not satisfied with the Independent Investigator's report, will be a matter for the relevant decision-making body.

8. Responsibilities of members of the Parliamentary Community

8.1 All members of the Parliamentary Community should treat others with dignity, courtesy and respect and be aware of the types of behaviour that are unacceptable under this policy.

8.2 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. In cases where a report cannot be made under this policy, this should not prevent anyone from raising concerns elsewhere (e.g. with their line manager or HR service).

8.3 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 complainant, respondent or a witness) are encouraged to use the ICGS helpline for advice and support.

8.4 Anyone who is involved in the provision of advice through the ICGS helpline, an informal resolution or a formal investigation of a complaint also has a responsibility to act with integrity, to provide accurate information and to maintain confidentiality, except to the extent that information about the complaint and its outcome is published by a decision-making body (and see

also paragraph 4.12). This is particularly important since breaches of confidentiality can result in both workplace and media exposure or scrutiny for those involved, which can be deeply upsetting and damaging.