

Independent Expert Panel
Chair, Rt Hon Sir Stephen Irwin

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Website: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/independent-expert-panel>

House of Commons Commission
cc Chris Bryant MP, Chair of Standards Committee

12 July 2021

Recall of MPs Act 2015

I am writing to follow up our discussion on the Recall of MPs Act 2015 at the Commission meeting on 21 June. I understand that the Commission may be discussing the question of recall again today.

I have been given sight of the Opposition motion *IEP Recommendations for Sanction and the Recall of MPS Act 2015*. I am seriously concerned about paragraph (3) of the motion.

There are important objections to paragraph (3), as offending against the principle that a sanction properly determined by the IEP should be final, and offending against the principle that there should be no retrospective imposition of a sanction which was not available at the time when a given case was determined by the IEP. I also consider that this paragraph impinges on the independence of the IEP, since, if implemented, it would amount to a political decision affecting the sanction in an individual case.

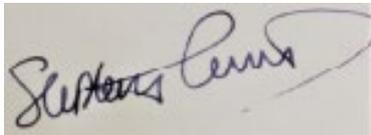
As will be clear from earlier exchanges, I fully understand that there is an anomaly in respect of recall arising from the exclusion from the 2015 Act of suspensions determined by the IEP. Provided the independence of the IEP is fully maintained, I would be glad to see the anomaly abolished for the future. But that is a very different matter from giving any such abolition retrospective effect, so that the outcome in the case of an individual MP is altered.

This is not a question of the merits of the individual case. It is wrong in principle for a properly determined sanction to be altered by any other route than a proper appeal. There is no appeal route from a sanction decision on appeal by the IEP. It is also wrong in principle for a sanction to be made retrospective. The effect of paragraph (3) of this motion, if implemented, would be to render the Panel's decision on appeal in the case of Mr Roberts MP other than final. He would be subject to an additional period of suspension beyond that determined by the IEP, which would in turn invoke the recall provisions. The liability to recall would amount to an additional and retrospective penalty.

Of equal importance, in my view, is the point that this provision would represent a decision by the House directly affecting a sanction determined by the IEP. The independence of the system was at the very heart of the recommendations by Dame Laura Cox which led to the Panel being constituted. Such a change would set a very undesirable precedent. The effect here would be to increase a sanction. But once such a change has been permitted in that direction, what is to prevent the House making a change so as to diminish a sanction properly determined by the IEP?

May I respectfully ask the Commission to consider these concerns in any discussion on recall.

Kind regards,

A handwritten signature in black ink, appearing to read "Stephen Irwin", written on a light-colored background.

Stephen Irwin

Chair of the Independent Expert Panel



The Speaker

Speaker's House Houses of Commons London SW1A 0AA

Wednesday, 14 July 2021

Dear Sir Stephen,

Thank you for your letter to the House of Commons Commission over the weekend, which was very helpful in informing our discussion on Monday morning.

The Commission has agreed that it is desirable in principle to ensure that the provisions of the Recall of MPs Act 2015 can be engaged if the Independent Expert Panel determines a suspension of the requisite length should apply, and that this should be done as quickly as possible. In consequence it has decided to put changes to Standing Orders before the House. In reaching this decision, it weighed the risks of any perceived undermining of the Independent Expert Panel's independence, against the desire by many to respond quickly to the current situation. The Commission takes the independence of the IEP process very seriously, and expects that the Standing Orders will be operated in a way which does not affect that independence. In this context, the Commission considered that changing Standing Orders would not preclude legislation to amend the Recall of MPs Act if that was considered necessary or desirable in the future.

The motion that will be brought forward by the Leader of the House to implement the changes to Standing Orders will not make provision for the retrospective imposition of sanctions previously set by the Panel. However, as you have already seen, the Opposition is in favour of retrospectivity. Members will be able to table amendments to the Leader's motion, as they could to any other motion. Ultimately, it will be a matter for the House to determine the way forward on this issue.

I would be very happy to meet to discuss further if that would be helpful.

Yours sincerely,

Rt Hon Sir Lindsay Hoyle MP
Speaker of the House of Commons

Stephen Irwin
Chair of the Independent Panel