

Independent Expert Panel

Annual Report: 2021

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The Independent Expert Panel

The Independent Expert Panel was established by the House of Commons on 23 June 2020. The Panel hears any appeals from decisions by the Parliamentary Commissioner for Standards in complaints against a MP or former MP under the Independent Complaints and Grievance Scheme (ICGS), and considers referrals from the Commissioner to determine sanctions in such cases. These are cases involving an allegation of a breach of the Bullying and Harassment Policy for UK Parliament, or the Sexual Misconduct Policy for UK Parliament.

Current membership

Mrs Lisa Ball
Monica Daley
Mrs Johanna Higgins
Sir Stephen Irwin (Chair)
Professor Clare McGlynn
Miss Dale Simon
Sir Peter Thornton
Dr Matthew Vickers

Powers

The Panel's powers are set out in House of Commons Standing Orders Nos 150A to 150D. These are available on the internet via www.parliament.uk.

Publication

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Accessible versions of this report are available on request. Please email independentexpertpanel@parliament.uk

Panel staff

The Secretary to the Panel is Ian Bradshaw. Emily Baldock was Secretary until September 2021.

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Contents

Foreword by the Chair of the Panel	3
Panel members	5
The creation of the IEP: Principles, practice and guidance	9
Cases decided in 2021	18
Wider issues arising from decided cases.....	20
Panel members' fees and expenses.....	25

Foreword by the Chair of the Panel

This is the Independent Expert Panel's first annual report. We were created to ensure that complaints about bullying, harassment and sexual misconduct by MPs are decided completely independently, and in a fair and rigorous manner that rebuilds the confidence of the Parliamentary community and the public.

I believe that since the Panel was appointed in November 2020, we have made significant progress towards that goal. Against the backdrop of the pandemic, we have established our procedures with clarity and rigour, and have published them. We have decided our first six cases, four of which were outstanding at our creation. We have current cases but no backlog, at the date of writing. We have learnt a lot through that process of development.

Most importantly, through our public reports we have demonstrated that MPs who bully, harass, or commit sexual misconduct against, their staff, House staff, other MPs or anyone else in the Parliamentary community can be held to account.

We are only the most visible part of the ICGS process. We rely on the work of the ICGS team, the independent investigators, and the Parliamentary Commissioner for Standards. They must ensure that investigations are rigorous, fair to all, and that those involved are supported through the process. It is of cardinal importance that complainants feel able to come forward, in some cases reliving traumatic events from some time ago. We pay tribute to them, and the House owes them a debt.

It is also of cardinal importance that we are impartial in our approach to cases. We recognise that our decisions can carry a huge impact for complainants and respondents. There will always be people, on both sides, who are disappointed and hurt if they lose a case, or part of a case. We do not set out to be popular, but to be thorough and just to all.

I am lucky to chair a panel that brings together colleagues with a diverse range of relevant professional expertise and personal backgrounds. We are conscious that although our independence and outside perspectives are strengths, we must also understand the House of Commons as a place of work with very particular challenges. We will continue the programme of training and familiarisation meetings that has been an important part of our first year. I would like to thank all those MPs, members of staff and other stakeholders who have been generous with their time in supporting us.

The House of Commons is a unique workplace. MPs face very particular challenges. But many workplaces are unlike others. Many professions face similar levels of challenge and

stress and, sadly, abuse. Too often Parliament's uniqueness and the pressures on MPs, have been cited as a reason to avoid tackling or even to excuse unacceptable behaviour. The creation of the IEP and the ICGS were a recognition by the House that it wanted to change the attitudes and culture in this unusual workplace. That task was not invented by us, but was given to us, with others, to carry into effect. Overall, it should be the objective of us all that poor conduct should diminish, and that we should have fewer cases as a consequence.

Through the six cases we have decided, and the wider discussions and meetings we have had, several other themes have emerged that appear to us to have wider importance if a lasting change in the House's culture is to be achieved.

We have observed the persistence of stereotypes about who can be a victim, or perpetrator, of sexual misconduct, bullying or harassment; and the expectation as to how honest and genuine victims will respond. There is no "typical" victim or perpetrator. There is no "typical" way for them to act or respond, notably including how quickly they might make a complaint. We will consider every case that comes to us with an open mind and on its own merits.

Three of the cases we decided last year involved new MPs harassing their staff. There was no excuse for their actions, and the harassment of staff is not limited to new MPs. However, the cases do raise questions about the support provided to new MPs. We know this is an area the House has focused on in recent years, and we will observe with interest how this is tackled.

We are conscious that there is more to do to ensure that the ICGS process is as timely as possible. We set out in this report the steps the Panel is taking. The ICGS team are implementing the recommendations of Alison Stanley's review, but this an issue on which we must collectively remain focussed.

Finally, it was welcome that in October, by an amendment of Standing Orders, the House moved to end the anomaly whereby suspensions imposed by the IEP did not trigger the Recall of MPs Act. However, the new process set out in Standing Orders may have risks for the Panel's independence in the long-term. It remains our clear preference that the anomaly should be definitively and permanently removed by amending the Act.

Rt Hon Sir Stephen Irwin
2 March 2022

Panel members

Mrs Lisa Ball



Lisa has over two decades' experience of adjudication determining complaints of bullying, sexual harassment, and discrimination as well as disciplinary matters. In 2008 she was appointed as one of the first independent members of the Armed Forces Service Complaints Panel and since 2009 she has been the independent member of the Queen's Counsel Complaints Committee.

Additionally, Lisa has previously served in a wide range of independent and lay roles including the Solicitors Regulations

Authority; the Independent Healthcare Advisory Services; a Police Authority; the Royal Institution of Chartered Surveyors; the PHSO and the NHS.

Ms Monica Daley

Monica is a barrister of 25 years' standing. She has acted in a judicial capacity since 2006, first as a Fee-Paid Property Judge of the Residential Property Tribunal and also, more recently, as a fee-paid judge for both the Health and Social Care Tribunal and the Special Education and Disability Tribunal dealing with appeals in cases involving sensitive and confidential issues.

In 2015 she was appointed as one of the first cohorts of independent legal Chairs of the Police Misconduct committee for East England. In 2016, Monica was also appointed as a Legal Assessor for fitness to practice committees of the Nursing and Midwifery Council.



Mrs Johanna Higgins



Johanna is currently a Northern Ireland Commissioner for the Criminal Cases Review Commission, a panel member for the Centre for Effective Dispute Resolution, and a panel member for the Civil Legal Services Appeal Panel, Northern Ireland.

Johanna is a barrister of 27 years call, a Bencher of the Inner Temple and has worked as a senior public prosecutor in Northern Ireland. She has extensive experience of criminal casework, criminal appeals, judicial review, historic cases, adjudication and community care law. She is also an elected member of the Royal Historical Society.

Rt Hon Sir Stephen Irwin



Sir Stephen was appointed Lord Justice of Appeal in 2016 and acted as the supervising justice for extradition and national security cases until his retirement in October 2020. He is a member of the Privy Council and continues to sit part-time as a deputy Lord Justice of Appeal.

He is a trustee of the Slynn Foundation, which offers support and training to judges and lawyers in jurisdictions where they may be under pressure, or facing major change. From July 2021 to early 2022, he facilitated discussions which have led to the establishment of a process of alternative dispute resolution for the bereaved, survivors and relatives of the Grenfell fire tragedy.

Stephen was a High Court judge from 2006 to 2016. Between 2013 and 2016 he was Chairman of the Special Immigration Appeals Commission (SIAC) and from 2011 to 2018 he was Chairman of the Judicial Security Committee responsible for judges' safety. He spent seven years as a tutor on the Judicial College leadership course.

Prior to his judicial career Stephen had extensive experience as a barrister, was appointed Queen's Counsel in 1997, and in 2004 took on the high-profile role of Chairman of the Bar for England and Wales.

Professor Clare McGlynn QC (Hon)

Clare McGlynn is a Professor of Law at Durham University, with particular expertise in criminal law. A qualified solicitor, she was appointed QC (Hon) in 2020 in recognition of the influence of her research on law and policy reform, particularly image-based sexual abuse and extreme pornography. Clare was a member of Durham University's Sexual Violence Taskforce and undertakes sexual violence and misconduct investigations within the university, as well as supporting other institutions regarding their



sexual misconduct policies. She also has experience of adjudicating claims of bullying and harassment. Clare has held several leadership roles at Durham including as Deputy Head (Research) of the Faculty of Social Sciences and Health, Director of the ESRC Impact Acceleration Fund and member of its governing body, the University Council.

Miss Dale Simon



Dale Simon is a qualified barrister who had an extensive career with the CPS where she was the Director for Public Accountability and Inclusion and had corporate responsibility for hate crime and violence against women and girls. She spent three years as Head of the Office for Judicial Complaints handling serious and sensitive judicial investigations and was also a Non-Executive Director at the Parole Board for 6 years where she was a member of the Management Committee and the Chair of the Standards Committee. Dale currently sits as an independent panel member for public appointments for the Ministry of Justice and as a lay chair of Fitness to Practice Hearings for the Nursing and Midwifery Council. She is also a member of the National Child Safeguarding Practice Review Panel. Dale was an advocate consultant for Phase II of The Young Review with responsibility for liaising with statutory and voluntary organisations, taking forward the recommendations of the Young Review to reduce the disproportionality negative outcomes for young Black Asian and Minority Ethnic and/or Muslim men in the criminal justice system. In 2013 Dale was awarded a CBE for services to equality and diversity.

Sir Peter Thornton QC

Sir Peter Thornton is a former judge. He was a Senior Circuit Judge between 2007 and 2016 sitting at the Central Criminal Court, hearing cases involving murder, terrorism and serious sexual offences. He also sat as an appellate judge in the Court of Appeal (Criminal Division) and in the High Court on inquest appeals.

Sir Peter was the first person to hold the post of Chief Coroner of England and Wales, between 2012 and 2016. Having chaired five different disciplinary panels, including misconduct panels for academic staff at University College London and fitness to practise appeals for medical students, Peter is at present Chair of the UCL Discipline Review Body. He is currently a Visiting Professor in the Law School at King's College London and trains judges and coroners in the UK and abroad. He is Patron of the National Network of Child Death Review Panels.



Dr Matthew Vickers



Matthew Vickers is Chief Ombudsman and Chief Executive of Ombudsman Services, which is the UK's energy and telecommunications ombudsman. He is responsible for procedural and administrative justice, ensuring that investigations are carried out with empathy and balance and that decisions are consistent and well-reasoned. Matthew was previously CEO of the Scottish Legal Complaints Commission (SLCC) which is responsible for the investigation of complaints about the legal profession in Scotland. In that role he was responsible for establishing the SLCC's credibility and legitimacy with the public and legal profession. Matthew has also worked for the Foreign and Commonwealth Office and in various commercial and not-for-profit organisations. Matthew is also a trustee and Chair Designate of the charity Human Rights at Sea.

The creation of the IEP: Principles, practice and guidance

1.1 The Independent Expert Panel (the Panel or IEP) was established by the House of Commons on 23 June 2020;¹ and its members were appointed on 25 November 2020.² The Panel was created in response to one of the “fundamental” recommendations of Dame Laura Cox QC’s 2018 independent inquiry into the bullying and harassment of House staff:

*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.*³

1.2 This was endorsed by Gemma White QC in her own report on the bullying and harassment of MPs’ staff.⁴ She observed that, “a number of contributors to this inquiry have told me that they have no confidence in a process as long as it involves MPs judging “one of their own”.”⁵

1.3 The Panel is part of the Independent Complaints and Grievance Scheme (ICGS) which was approved by the House of Commons on 19 July 2018. The ICGS was created as a process for receiving and dealing with complaints from members of the Parliamentary community (including visitors to the estate) of bullying, harassment and sexual misconduct. It involves a helpline, an investigator (where a formal complaint is made) who makes recommendations, and, for complaints against MPs, the Parliamentary Commissioner for Standards (the Commissioner) who considers the recommendations and decides whether to uphold the complaint.

1.4 The Panel hears any appeals from decisions made by the Commissioner in ICGS cases, and considers referrals from the Commissioner to determine sanctions. These are cases involving an allegation against an MP of a breach of one of two

¹ HC Deb, 23 June 2020, [col 1244](#).

² HC Deb, 25 November 2020, [col 887](#).

³ Dame Laura Cox DBE, [The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), 15 October 2018, p6.

⁴ Gemma White QC, [Bullying and Harassment of MPs’ Parliamentary Staff: Independent Inquiry Report](#), HC 2206, 11 July 2019, paras 139-14.

⁵ *Ibid*, para 140

policies: the Bullying and Harassment Policy for UK Parliament and the Sexual Misconduct Policy for UK Parliament.⁶ The House of Lords has separate procedures for considering complaints of bullying, harassment and sexual misconduct against its members, with appeals being considered by the Lords Conduct Committee.⁷

- 1.5 As is clear from the biographies of Panel members on pages 5 to 8 the IEP is completely independent of MPs and the House Service.
- 1.6 This is true of the whole ICGS process. The ICGS helpline is operated by the independent charity Victim Support. Any complaints that are made to the helpline are initially assessed and then investigated by an independent investigator. Investigations into MPs are overseen by the Commissioner, who also makes the decision on whether to uphold the complaint and the appropriate sanction, or if the case is too serious to refer it to the IEP for sanction. Respondents and complainants can appeal the Commissioner's decisions to the Panel.

Establishing the IEP

- 1.7 Dame Laura Cox QC set out the challenges any new independent and impartial decision-making process would face. It had to restore the confidence of staff, and command public trust. But it also had to “command the respect and confidence of Members of Parliament” who were “entitled to a system that [...] guarantees fairness, integrity and “impeccable independence”.”⁸
- 1.8 The Panel strove to meet this challenge as it established itself after it was appointed in November 2020. It has drawn on the diverse professional and personal backgrounds of Panel members, with input from stakeholders from across the Parliamentary community. The later sections of this chapter set out the procedures, policy and practice it has developed to guarantee fairness, integrity and independence.
- 1.9 Developing procedure and practice was only part of the process of establishing the Panel as an effective working body. The House of Commons is a unique institution.

⁶ See, UK Parliament, [Independent Complaints and Grievance Scheme](#)

⁷ For more details see, House of Lords, [Code of Conduct for Members of the House of Lords, Guide to the Code of Conduct, and Code of Conduct for Members' Staff](#), 11th edition, HL 87, 28 October 2021, in particular paras 18, 123-126, 128-200 and annex B.

⁸ Dame Laura Cox DBE, [The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), 15 October 2018, para 361.

This fact has sometimes been used in the past to excuse the failure to tackle the poor practices and culture that underpinned much of the misconduct detailed by Dame Laura Cox QC and Gemma White QC. The House may be unique, but that does not excuse bullying, harassment or sexual misconduct, or a failure to tackle them. Supporting positive culture change in the Commons through its work is one of the Panel's aims.

- 1.10 That said, Panel members were conscious that to be effective they needed to have an understanding of the House, its culture and ways of working. They therefore undertook an induction process, meeting senior House staff to discuss aspects of the House's operations, the Commissioner and the Director of the ICGS to discuss the wider ICGS process, as well as representatives of House and MPs' staff to understand their views. The Chair has also regularly met with members of the House of Commons Commission, the whips from the three main parties, and representatives of other parties. The Panel also took part in training on the legal and procedural context of its work, victims' experiences and stereotypes and myths around sexual misconduct allegations. The Panel will continue to undergo relevant training.
- 1.11 The COVID-19 pandemic prevented Panel members from travelling to Westminster for much of the period covered by this report, and Panel has only met once in person. Despite this, the Panel has established effective remote working arrangements, including carrying out oral hearings remotely. Most sub-panel meetings and other Panel work will continue to be carried out remotely in order to make best use of Panel member's time and minimise costs. However, as pandemic restrictions lift it is likely future oral hearings and full Panel meetings will happen in person. Most respondents prefer an in-person to a virtual hearing. It is also valuable for Panel members to understand the Parliamentary estate and how it shapes interactions between members of the Parliamentary community.

Procedure

- 1.12 The framework for the Panel's procedures is set out in House of Commons Standing Orders. For individual cases a sub-panel of three members is appointed to consider an appeal from the Commissioner's decision (whether by complainant or respondent), and then, if necessary, the appropriate sanction. Appeals are conducted by way of review; they are not a rehearing. There is no further appeal against a sub-panel's decision on an appeal against the Commissioner's decision.

A respondent may, however, appeal a sub-panel's subsequent decision on sanction to a new sub-panel of three different panel members.

- 1.13 Under the ICGS policies agreed by the House all decisions made by the IEP use the standard of proof of the “balance of probabilities”, in other words that conduct is more likely to have happened than not. This is the standard of proof adopted in employment law in England and Wales, as well as in all comparable workplace disciplinary processes.⁹
- 1.14 Within the framework set out in Standing Orders, the ICGS policies, and related resolutions adopted by the House, the Panel is empowered to develop its own procedure and practice.¹⁰ As a first stage the Panel agreed the Guiding Principles for its work set out in the box over the page.

Practice and Guidance

- 1.15 Reflecting these guiding principles, the Panel developed an initial set of procedures. These were set out in Guidance for the Parties published in February 2021. An updated and expanded set of Guidance was published in October 2021, reflecting the updated ICGS policies adopted in April 2021 (see paragraph 1.21), the House's resolution on the sanctions open to the Panel, experience from the first cases decided by the Panel, and feedback from stakeholders and parties to cases.¹¹ The Panel will continue to keep its ways of working and guidance under review as it learns from future cases.
- 1.16 The Panel's procedures and guidance are intended to be flexible, not a prescriptive set of rules. Sub-panels will consider the unique circumstances of a case in deciding on the most appropriate approach in-line with the Panel's Guiding Principles. This includes making reasonable adjustments to ensure parties with disabilities or other specific needs can participate fully in the process.

⁹ For a discussion of the application of the correct standard of proof to ICGS cases see, The Independent Expert Panel, [The Conduct of Mr Mike Hill](#), HC 12, 20 May 2021, paras 2.51-2.62.

¹⁰ The Panel's powers are set out in [Standing Orders No. 150A to D](#). Procedures to be followed by sub-panels in hearing appeals and determining sanction are set out in SO No. 150B. The House first adopted the ICGS Policies on Sexual Misconduct and Bullying and Harassment on 19 July 2018, the latest versions were adopted on 28 April 2021 and are available from UK Parliament, [Independent Complaints and Grievance Scheme](#).

¹¹ The Independent Expert Panel, [Appeals, referrals and sanctions: Guidance for the parties](#), version 2, October 2021.

The IEP's Guiding Principles

The Panel has decided the following principles to guide all its work:

1. The Panel is guided by the principles of natural justice, fairness for all parties, transparency and proportionality.
2. We understand the seriousness of, and the harm caused by, bullying, harassment and sexual misconduct. We are rigorously independent, impartial and objective, acting without any political input or influence.

Our aims are to:

- a) help embed positive steps directed at improving the culture and behaviour of Members, staff and the wider Parliamentary community, and
- b) support the commitments made by the House of Commons to the Independent Complaints and Grievance Scheme.

To this end we:

- a) Recognise that the ICGS is a workplace complaints and grievance scheme, not an adversarial process;
- b) Adopt policies and procedures that are as understandable, accessible and straightforward as they can be while being consistent with natural justice;
- c) Act in accordance with the principles of equality and diversity, being mindful of intersecting inequalities, the well-being of the parties and the need to protect potentially vulnerable people;
- d) Ensure that the parties are able to make their case;
- e) Determine cases flexibly, recognising the unique circumstances of each case;
- f) Are guided by the need for timeliness and proportionality in our procedures and decisions;
- g) Protect the confidentiality of proceedings and the identity of complainants and witnesses, handling data appropriately, while being open about the outcome of cases;
- h) Publish timely information about how we work, engaging with the parliamentary community and others to promote understanding, listen and learn;
- i) Abide by the Seven Principles of Public Life (the Nolan principles).

1.17 In developing its procedures, the Panel has had to make policy decisions in a number of areas:

- Grounds of appeal
- Its approach to sanctions
- Publication of reports
- Public interest considerations

Grounds of Appeal

1.18 The Panel's role in considering appeals against the Commissioner's decision is to review that decision, not to rehear the case afresh. Therefore, it has determined that appeals should be made on one of the following grounds:

- a) The investigation was materially flawed in a way that affected the decision of the Commissioner;
- b) The process followed by the Commissioner was procedurally flawed or her decision was unreasonable;
- c) The decision of the Commissioner on sanction was unreasonable or disproportionate;
- d) Credible fresh evidence has become available, which could not reasonably have been presented before the Commissioner made her decision, and which, if accepted, has a real prospect of affecting the outcome; and/or
- e) Exceptionally, there is another compelling reason that an appeal should be heard or allowed.

1.19 To ensure the process is proportionate, a sub-panel considering an appeal will first decide whether it falls under one of the grounds above, and whether there is any substance to those grounds. If there are substantive grounds of appeal it will then go on to consider them. The process for doing so is inquisitorial. Normally appeals are decided on the basis of written submissions from the parties. Exceptionally a sub-panel may decide that an oral hearing with a party is required to allow the sub-panel to question them.

- 1.20 There is no further appeal against the sub-panel's decision on an appeal against the Commissioner's decision. A respondent may appeal a sub-panel's decision on sanction to a fresh sub-panel. The grounds for any appeal on sanction are:
- a) the decision of the sub-panel on sanction was unreasonable or disproportionate;
 - b) credible fresh evidence has become available, which could not reasonably have been presented before the sub-panel made its decision, and which, if accepted, has a real prospect of affecting the outcome; and/or
 - c) exceptionally, there is another compelling reason that an appeal should be heard or allowed.

Sanctions

- 1.21 The sanctions the Panel may impose or determine for approval by the House were clarified by the House on 21 April 2021.¹² For sitting MPs, these run from requiring apologies to the complainant and the House, through training and withdrawal of access to services, to suspension or expulsion from the House. The most serious sanctions require the agreement of the House. For former MPs the Panel can remove their right to a former Members Pass, publicly reprimand them, or recommend that the House does.
- 1.22 In setting the appropriate sanction, the Panel has decided it will follow its Guiding Principles (see box on page 13) and apply three further principles:
- a) The sanction should reflect the impact of the conduct on the complainant.
 - b) The sanction should reflect the nature and extent of the misconduct proved.
 - c) Where possible, the approach to sanction should incorporate positive steps aimed at improving the culture and behaviour of Members, staff and the wider Parliamentary community.
- 1.23 The Panel's guidance sets out more detail as to how these principles will be applied, including example aggravating and mitigating factors, and the need to

¹² House of Commons, Votes and Proceedings, [21 April 2021](#), item 9.

consider any ongoing or future risk to the complainant or other members of the Parliamentary community.¹³

Reports

- 1.24 The Panel Chair is required by Standing Orders to make a report to the House when a sub-panel has determined a sanction that needs the House's approval. The Panel has decided that it will also publish reports where it requires an apology to be made in the House; and normally publish a report in other cases where a complaint has been upheld, and where a complaint has not been upheld but the allegations have already been given publicity. It will not normally publish a report in cases where a complaint has not been upheld and confidentiality has been maintained, but may do so if there is a subsequent breach of confidentiality. The reports published in 2021 are summarised in the next chapter.
- 1.25 Before publishing a report, the Chair will consider what redactions to sub-panel decisions may be necessary to protect the confidentiality of the complainant and witnesses, as well as any sensitive information relating to a party that it would not be appropriate to publish.¹⁴ What is published about a complainant will normally be agreed with them before publication. In some cases, for instance where substantial redactions would be necessary, the Chair may decide to publish a summary of a decision instead.¹⁵

Public Interest Considerations

- 1.26 There will be circumstances where it is necessary for a sub-panel to consider whether it is in the public interest to pause or end its consideration of a case before coming to a decision. This may be either at the request of a party or on the sub-panel's own initiative based on the facts of a case.
- 1.27 For example, representations were made on behalf of Mr Keith Vaz to the effect that he was too unwell to engage with the IEP process and the sub-panel's consideration of the Commissioner's referral of the complaint against him should therefore be abandoned.¹⁶ The sub-panel therefore decided that it must consider

¹³ The Independent Expert Panel, [Appeals, referrals and sanctions](#), paras 53-6.

¹⁴ Ibid, paras 93-95.

¹⁵ See for example, The Independent Expert Panel, [The Conduct of Mr Jared O'Mara](#), HC 1361, 19 April 2021.

¹⁶ The Independent Expert Panel, [The Conduct of Mr Keith Vaz](#), HC 731, 23 September 2021, para 2.22.

whether it was in the public interest to continue, which it subsequently proceeded to do. In doing so it set out the following, non-exhaustive, list of considerations that may be relevant in making such a decision:

*[...] fairness and natural justice, proportionality, the aim of improving culture and behaviour within the House of Commons, the nature and extent of the misconduct established, the impact of the Respondent's conduct on the Complainant, the potential for any ongoing or future risk from similar behaviour in the future, the sanctions available to the Panel in the particular case, the need to reach as timely as possible a conclusion, the extent to which the Respondent has the capacity to engage with the sanctions process, any failure by a party (in this instance the Respondent) to engage in the process, and the health or infirmity of the Respondent.*¹⁷

¹⁷The Independent Expert Panel, [The Conduct of Mr Keith Vaz](#), HC 731, 23 September 2021, para 2.28.

Cases decided in 2021

- 2.1 The Panel published reports on six cases during 2021, covering seven complaints. These are summarised in Table 1 on the next page and are available in full on the Panel’s website.¹⁸ Of these four were “legacy” cases that had been paused whilst the Panel was created. All the legacy cases have been completed. The Panel did not make any decisions on cases in 2021 that were not the subject of a published report.
- 2.2 The Chair of the Panel referred Mr Daniel Kawczynski MP to the Parliamentary Commissioner for Standards under Standing Order No. 150A(5)(g) for failure to comply with a recommendation of the Panel; namely to apologise unequivocally for his misconduct and not to make public information that might lead to the identification of the complainants. The Committee on Standards found Mr Kawczynski in breach of the Code of Conduct for MPs and recommended that he apologise to the House and be suspended for one sitting day.¹⁹ Mr Kawczynski made his apology on 19 January 2022,²⁰ and the House suspended him on the same day.²¹
- 2.3 As of 31 December 2021, the Panel was considering four complaints covering two respondents.

¹⁸ www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/independent-expert-panel/reports/

¹⁹ Committee on Standards, Fifth Report of Session 2021-22, [Daniel Kawczynski](#), HC 1036, 13 January 2022.

²⁰ HC Deb 19 January 2022, [col 354](#).

²¹ Ibid, [cols 466-70](#).

Table 1: reports published by the IEP in 2021

Report	Date	Policy	Outcome	Sanction (if any)
Mr Ross Thompson	23 February 2021	Sexual misconduct	Not upheld	N/A
Mr Jared O'Mara	19 April 2021	Sexual misconduct	Upheld	Withdrawal of right to former members pass
Mr Mike Hill	20 May 2021	Sexual misconduct	Upheld	None (Mr Hill resigned from the House prior to a sanction being considered) ²²
Mr Rob Roberts MP	25 May 2021	Sexual misconduct	Upheld	Six week suspension
Mr Daniel Kawczynski MP	14 June 2021	Bullying & Harassment	Upheld	Apology to the House via personal statement
Mr Keith Vaz	23 September 2021	Bullying & Harassment	Upheld	Reprimand by Panel, withdrawal of right to former members pass

²² The sub-panel concluded that: "In this particular case, following the Responder's decision to resign as a Member of the House of Commons, we conclude that no available sanction is appropriate. We therefore do not impose or recommend a sanction. Our powers in respect of former Members are in any event extremely limited. It is clear that no minor sanction could satisfactorily reflect the seriousness of the Responder's conduct. Had the Responder not resigned, we would have likely considered recommending the sanction of suspension from the House. We have not recommended to the Speaker of the House that the Responder should be denied a former Member's pass to the parliamentary estate." [Conduct of Mr Mike Hill](#), para 3.18.

Wider issues arising from decided cases

- 3.1 One of the Panel's aims is "to help embed positive steps directed at improving the culture and behaviour of Members, staff and the wider Parliamentary community". Its main route for doing so is via the decisions it makes on individual cases. The circumstances of each case are unique, and the small number of cases the Panel has decided makes it difficult to draw firm conclusions. However, there are several points emerging from the cases decided in 2021 that it feels may be relevant to wider discussions about the House's culture or processes.

Myths, misconceptions and stereotypes regarding sexual misconduct complaints and complainants

- 3.2 Commonly held myths and stereotypes about sexual misconduct complaints and complainants were evident in several cases the Panel decided last year. They were demonstrated by respondents and witnesses, and in one case, an investigator. Their perpetuation within the Parliamentary community may deter complainants from coming forward and undermine decision making processes.
- 3.3 Several assumptions were made that there are "typical" ways for a victim of sexual misconduct to behave, and therefore any perceived "atypical" response undermines a complainant's credibility. Research has demonstrated that there is no "typical" or "normal" response to being the victim of sexual misconduct. Just as there are no "typical" victims of sexual misconduct, there are also no typical perpetrators. The credibility of the parties and any witnesses to a complaint must always be considered strictly on the evidence of the complaint.
- 3.4 Victims will sometimes, but not always, wait before making a complaint. Delayed reporting may be a factor to be considered in the totality of the evidence, but no assumption should be made about it. "Delay" does not necessarily mean that the report is untrue or that the complainant's credibility is undermined as a result. It is common for there to be delays, even long delays (sometimes years), in reporting misconduct, especially if there have been concerns about the independence and robustness of any system for handling complaints.
- 3.5 Assumptions about how a complainant would change their outward behaviour towards a respondent as a result of being the target of sexual misconduct, should

also be avoided. Again, there is no “typical” response. For example, some victims may not want, or be able to, change their relationship with a perpetrator if they fear it may impact their job or personal security.

- 3.6 Finally, it should be remembered that the definition of sexual misconduct adopted by the House covers behaviours that may not be criminal sexual offences or sexual harassment as defined in law. 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.*²³

The length of the process

- 3.7 It is clear that the ICGS process has taken time to bed in, as reflected in Alison Stanley’s 18 Month review published in February 2021.²⁴ Several complainants and respondents have raised the length of the process, and the impact that has had on them. Alison Stanley’s review has already resulted in a series of changes to the ICGS policies and procedures, including those agreed by the House in April 2021.²⁵ The ICGS Annual Report published in October 2021 set out the further steps it is taking to improve the quality and timeliness of investigations.²⁶
- 3.8 As it has gained experience, the Panel has also increasingly focussed on deciding cases in a timely manner, consistent with fairness and natural justice. The Panel’s guidance was amended in October to reduce the time limit on appeals against sanction.²⁷ The Panel Secretariat is engaging with the Commissioner’s Office and ICGS to help with forward planning so sub-panels can be appointed promptly when cases are referred to the Panel. It is also working with sub-panels to develop indicative timetables for deciding cases to help provide more guidance to the parties about how long stages in the process will take.

²³ UK Parliament, [Sexual Misconduct Policy for Parliament: Edition 2021](#), April 2021, para 2.3.

²⁴ Alison Stanley CBE, [Independent Complaints and Grievance Scheme: Independent 18 Month Review](#), 22 February 2021.

²⁵ HC Deb, 28 April 2021, [cols 454-469](#).

²⁶ ICGS, [Annual Report: July 2020 – June 2021](#), October 2021.

²⁷ The Independent Expert Panel, [Appeals, referrals, and sanctions: Guidance for the parties](#), para 7.

The role of the Panel in promoting confidence in the House

3.9 The Panel's decisions on the appropriate sanction are based on the facts of an individual case and the principles set out in paragraph 1.22. However, it is also aware of the importance of its published reports on cases, as the most visible part of the ICGS, in rebuilding the Parliamentary community's and the public's confidence that bullying, harassment and sexual misconduct are taken seriously by the House. This is a point that has been stressed to it by several stakeholders, including the importance of reports into the conduct of former MPs even though the sanctions in these cases available to the Panel are limited. As Dame Laura Cox QC made clear in her report into bullying and harassment of House staff:

*It is difficult to overstate the impact that the existence of all these allegations [of bullying] has on the level of respect for Members and the authority of the House of Commons as a whole, or the damage being done to its dignity and standing and to public confidence in our Parliament [...]*²⁸

3.10 That is why the Panel has decided to normally publish reports in all cases where a complaint is upheld, subject to any redactions necessary to protect the confidentiality of complainants and witnesses (see paragraph 1.25), not just those it is required to under Standing Orders. Sub-panels have also considered the need to protect the reputation of Parliament and improving its culture by reinforcing the standards of individual behaviour expected of MPs, in deciding on sanction in individual cases.²⁹

Recall of MPs

3.11 The Recall of MPs Act 2015 provides that under specified circumstances a "recall petition" is opened in a constituency, which if signed by 10% of the local electorate within six weeks results in that seat being declared vacant and a bye-election being held. Under section 1(4) the suspension from the House of a MP more than 10 sitting or 14 days results in a recall petition being opened if it is based on a recommendation by the Committee on Standards. Suspensions imposed on any other basis, including following a recommendation by the IEP, does not trigger the

²⁸ Dame Laura Cox DBE, [The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), 15 October 2018, para 147.

²⁹ See for example, The Independent Expert Panel, [The Conduct of Mr Daniel Kawczynski MP](#), HC 326, 14 June 2021, para 3.26; The Independent Expert Panel, [The Conduct of Mr Rob Roberts MP](#), HC 245, 25 May 2021, paras 3.27 and 4.29; and, The Independent Expert Panel, [The Conduct of Mr Keith Vaz](#), para 1.1.

Act. Therefore, the House's agreement in May 2021 to the Panel's recommendation that a MP be suspended for six weeks did not result in a recall petition.³⁰ This represents an obvious anomaly.

- 3.12 The Panel supports the subsequent decision by the House to amend its Standing Orders to address this on an interim basis, establishing a requirement that where the IEP determines a suspension of the required length, the Committee on Standards must make a report within three days recommending the same sanction.³¹ This should resolve the anomaly, albeit by indirect means. However, the Panel remains of the view that this would be better achieved by an amendment to the 2015 Act.
- 3.13 To maintain the Panel's independence, there must be no question that the Committee on Standards could examine, debate or comment upon the IEP's recommendation in making its report. The Panel welcomes the current Chair of the Committee on Standard's commitment on behalf of the Committee not to do so, but notes that they cannot bind their successors.³² If in the future this undertaking were departed from, the Panel would regard that as a serious retrograde step, and a serious threat to the independence of the system represented by the establishment of the Panel.

Support provided to MPs in setting up and running their offices

- 3.14 Three cases decided by the panel in 2021 related to sexual misconduct of MPs towards their staff. All three were new MPs elected for the first time at the previous election, two in 2017 and one in 2019.
- 3.15 There is no excuse for the misconduct that occurred in any of those three cases. Nor is it the case that misconduct towards MPs staff is limited to new MPs. However, these cases have led the Panel to reflect on the support available to MPs, especially newly elected MPs, in the setting up and running of their offices.
- 3.16 The Panel recognises the improvements made to the professional HR advice available to MPs in recent years, and the creation of the Member Services Team in 2020. The House has also made available "valuing everyone" training to all Members and their staff (as well as House staff) since 2019, providing practical

³⁰ HC Deb, 27 May 2021, [col 580](#).

³¹ This is reflected in Standing Order No. 150E, agreed by the House on 19 October 2021.

³² HC Deb, 19 October 2021, [col 639](#).

training on avoiding, and challenging, bullying, harassment and sexual misconduct. Such training is not, however, a panacea. Respondents have committed misconduct after attending the training. More broadly it remains to be seen whether these steps will be sufficient. This is not a problem within our remit or indeed our expertise, and we raise it essentially for the attention of those more directly concerned.

The challenges faced by MPs

3.17 In several cases, respondents have highlighted the unique challenges faced by MPs. The panel has recognised that, more than most occupations, MPs are in the public eye, and are subject to high levels of scrutiny, challenge and, often abuse. They face many competing, and often contradictory, demands on their time and energies.

3.18 However, this can never be an excuse or mitigation for bullying, harassment, or sexual misconduct. As the sub-panel decision on Mr Daniel Kaczynski MP concluded:

While the particular characteristics of an MP's life are unique, the level of pressure upon them is not. Many public servants bear comparable levels of pressure, whether in the military, the emergency services, the senior civil service or the judiciary, and in this instance, as staff in the House of Commons. The responsibilities and stresses of being an MP do not justify a loss of courtesy, an exaggerated sense of importance or entitlement, or bullying.³³

³³ The Independent Expert Panel, [The Conduct of Mr Daniel Kaczynski MP](#), para 3.31.

Panel members' fees and expenses

- 4.1 The tables on the following pages set out the fees and expenses claimed by each Panel member since the Panel was appointed in November 2020. These are published quarterly in arrears on the Panel's website.³⁴
- 4.2 Panel members are paid fees of £350 (excluding VAT) per half day of work they carry out for the Panel. They may also claim for expenses incurred in carrying out work for the Panel; in practice this generally means the costs of travelling to Westminster for meetings. Panel members are drawn from across the United Kingdom and the differing distances they must travel to attend meetings is reflected in their expense claims. No in-person meetings occurred before September 2021 owing to the pandemic. It is expected that most routine sub-panel meetings and other work will continue to happen remotely, and Panel members have been provided with secure Parliamentary IT equipment to facilitate this.
- 4.3 The fees to paid to individual members vary according to the number and complexity of cases they have undertaken. Panel members also contributed time and expertise to creating and then developing the Panel's practices and procedures in the period immediately following the creation of the Panel. This is reflected in the level of fees claimed during this period. The Chair, Sir Stephen Irwin, has additional responsibilities to co-ordinate the work of the Panel and sub-panels, and to engage with stakeholders on behalf of the IEP.
- 4.4 The Panel is supported by a small secretariat of House staff, consisting (as of December 2021) of a Senior Clerk (Band A1, 0.8 FTE) and a Committee Operations Manager (Band B2 0.5 FTE).

³⁴ The Independent Expert Panel, [Summary of invoice claims](#).

Summary of invoice claims

The table sets out totals claimed each month, exclusive of VAT.

In some cases, individual members have submitted invoices for two or three consecutive months; amounts claimed for each individual month have been calculated on work undertaken, rounded to the nearest half day.

	Lisa Ball	Monica Daley	Johanna Higgins	Stephen Irwin	Clare McGlynn	Dale Simon	Peter Thornton	Matthew Vickers	TOTALS
Nov 2020	£700	£700	£1,050	£1,400	£700	£700	£1,050	£700	£7,000
Dec 2020	£1,400	0	£2,800	£4,550	£5,600	£700	£3,850	£700	£19,600
Total 2020	£2,100	£700	£3,850	£5,950	£6,300	£1,400	£4,900	£1,400	£26,000
Jan 2021	£4,200	£1,400	£3,850	£5,950	£5,250	£1,400	£7,000	£1,750	£30,800
Feb 2021	£4,900	£700	£4,550	£3,150	£6,300	£1,750	£8,400	£700	£30,450
Mar 2021	£1,750	£700	£3,850	£1,750	£2,450	£3,500	£2,800	£1,750	£18,550
Apr 2021	£1,050	£350	£1,400	£1,750	£350	0	£700	0	£5,600
May 2021	£2,100	£700	£1,050	£3,500	£2,450	0	£1,050	0	£10,850
Jun 2021	£2,100	£700	£2,450	£4,550	£2,100	£350	£700	£700	£13,650
Jul 2021	£700	£700	£1,750	£2,450	£1,500	£350	£700	£700	£8,850
Aug 2021	0	0	£350	£700	£350	0	0	0	£1,400
Sep 2021	£700	£700	£1,050	£1,400	£700	£700	£700	£700	£6,650
Oct 2021	0	0	0	£1,400	0	0	0	0	£1,400
Nov 2021	£700	0	0	£4,200	0	0	£1,400	0	£6,300
Dec 2021	£3850	£700	0	£1,750	0	£700	£1,750	£700	£9,450
Total 2021	£22,050	£6,650	£20,300	£32,550	£21,450	£8,750	£25,200	£7,000	£143,950

Summary of expenses claims

No expenses were accrued in 2020

	Lisa Ball	Monica Daley	Johanna Higgins	Stephen Irwin	Clare McGlynn	Dale Simon	Peter Thornton	Matthew Vickers	TOTALS
Jan 2021	0	0	0	0	0	0	0	0	0
Feb 2021	0	0	0	0	0	0	0	0	0
Mar 2021	0	0	0	0	0	0	0	0	0
Apr 2021	0	0	0	0	0	0	0	0	0
May 2021	0	0	0	0	0	0	0	0	0
Jun 2021	0	0	0	0	0	0	0	0	0
Jul 2021	0	0	0	0	0	0	0	0	0
Aug 2021	0	0	0	0	0	0	0	0	0
Sep 2021	£27	0	£537	0	£267	0	0	0	£831
Oct 2021	0	0	0	0	0	0	0	0	0
Nov 2021	0	0	0	0	0	0	0	0	0
Dec 2021	0	0	0	0	0	0	0	0	0
Total 2021	£27	0	£537	0	£267	0	0	0	£831