

Independent Expert Panel

Annual Report: 2023

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The Independent Expert Panel

The Independent Expert Panel was established by resolution of the House of Commons on 23 June 2020. The Panel:

- Hears appeals against decisions made by the Parliamentary Commissioner for Standards (the Commissioner), and considers referrals from the Commissioner and determines sanctions in cases involving an allegation against an MP of a breach of Parliament's Sexual Misconduct Policy or the Bullying and Harassment policy, under the Independent Complaints and Grievance Scheme; and
- Hears appeals against decisions by the Committee on Standards in cases involving an allegation against an MP of a breach of the Code of Conduct for Members of Parliament.

Current membership

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

Powers

The Panel's powers are set out in House of Commons Standing Orders No. 150A to No. 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. Chloe Freeman is the Deputy Secretary and Miguel Boo Fraga the Operations Manager. Peter Stam acted as Secretary during part of 2023.

Contacts

All correspondence should be addressed to the Secretary to the Panel. The Panel's email address is independentexpertpanel@parliament.uk.

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Foreword by the Chair of the Panel

The Panel has now been appointed for just over three years, and I believe we have bedded down well. The diversity of experience and background within the Panel has been a real asset. The independence of the Panel is critical and has been fully maintained. I am confident that any unbiased reader of our decisions would confirm those conclusions.

There has been some public controversy and debate during 2023 about the effectiveness of the systems of complaint, and remedy of complaint, about the conduct of UK politicians. It would not be appropriate for me to enter into that broad debate. However, I do think it is appropriate to emphasise that in setting up the ICGS, including the establishment of the Panel as a body containing no MPs, with the critical role of hearing final referrals for sanction and final appeals, the House of Commons has taken a very important and novel step. Our decisions simply cannot be influenced by political considerations or political connections. So far as I am aware, no other legislature has done anything comparable.

In late 2022, the remit of the Panel was expanded by the House of Commons to include appeals from the Committee on Standards, in addition to ICGS cases. Although there are some differences of detail in our role between the two jurisdictions, the new caseload has not proved problematic and the current (and anticipated) volume of cases is well within the capacity of the Panel.

This year also saw the appointment of Daniel Greenberg CB as the new Parliamentary Commissioner for Standards and Thea Walton as Director of the ICGS. We welcome both of them and we are grateful for the cordial and helpful way in which each has cooperated with the Panel. We note the thoughtful and determined approach of Ms Walton to improving the organisation, quality and speed of ICGS investigations.

The Panel gives a high priority to making prompt decisions, and we have largely been able to achieve that. There are sometimes delays for reasons of welfare. We recognise that involvement in an appeal or referral to the IEP can be highly stressful, for complainants, witnesses and respondents. At the same time, delay at the behest of one party can increase the pressure on others. The Panel will always seek to strike the right balance where concerns of that kind arise. As noted below, the Panel had no outstanding cases at the end of 2023.

My appointment, and that of three other members of the Panel, Lisa Ball, Johanna Higgins, and Clare McGlynn, will come to an end at the close of November 2024, since we were appointed in November 2020 for a non-renewable term of four years. The remaining Panel members were appointed for six years, meaning that a rotation of appointments can be made, ensuring an appropriate continuity of membership and thus experience. Arrangements are in hand for the recruitment of a new Chair and Panel members during 2024.

I know the Panel as a whole will join me in giving great thanks to the staff who have supported us in 2023. Ian Bradshaw and Miguel Boo Fraga have been joined by Chloe Freeman, and during Ian's absence for some of the year, Peter Stam stepped in. All of them have been energetic, helpful and efficient. It is a huge benefit to have such support, upon which we can rely with complete confidence.

I wish to add my personal thanks to my fellow members of the Panel for their work this year. As before, I have tried to ensure that each has sat with a wide range of colleagues, where possible meaning that each has sat with all the other members of the Panel. The cordiality and effectiveness of our processes has been notable.

Rt Hon Sir Stephen Irwin

1 February 2024

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 King'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 over 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 the 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 31 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 the Chair 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 KC (Hon)

Clare is a Professor of Law at Durham University, with particular expertise in criminal law. A qualified solicitor, she was appointed KC (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 is an Academic Bencher of the Inner Temple and a member of the Judicial Appointments Commission and was a member of Durham University's Sexual Violence



Taskforce, undertakes sexual violence and misconduct investigations within the university and is a member of the University's Discipline Committee. As well as supporting other institutions regarding their sexual misconduct policies, Clare also has experience of adjudicating claims of bullying and harassment. Clare has held several leadership roles at Durham including as Deputy Head of the Faculty of Social Sciences and Health, and member of the University's governing body, the University Council.

Miss Dale Simon



Dale 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 KC

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.

Dr Matthew Vickers



Matthew Vickers was Chief Executive and Chief Ombudsman of Ombudsman Services (the UK's energy and telecoms ombudsman) from 2018 to 2023 and previously served as Chief Executive of the Scottish Legal Complaints Commission. He is experienced in investigations, decisions, appeals and judicial reviews in regulated sectors ensuring procedural fairness and transparency for parties and the public. An accredited mediator, he is a former Trustee of the Scottish Mediation Network. He currently chairs the Board of Trustees at Human Rights at Sea, a charity which promotes effective and enforceable legal redress to uphold human rights at sea internationally. His previous roles were as British Consul in Spain and before that in commercial leadership roles in retail and fast-moving commercial goods (FMCG). He holds a doctorate in the history of Victorian and Edwardian Liverpool from the University of Oxford.

Cases decided in 2023

The Panel published reports on five ICGS cases during 2023, covering six complaints. It published two reports on Code of Conduct appeals. The published reports are summarised in Table 1 and are available in full on the Panel's website.¹ The Panel made no decisions on cases in 2023 that were not the subject of a published report. At 31 December 2023 the Panel had concluded all cases referred and had no outstanding cases.

Table 1: reports published by the Panel in 2023

Report	Date	Remit	Outcome	Sanction determined by IEP (if any)
<u>Neil Coyle MP</u>	3 March	ICGS: Bullying and Harassment	Two complaints upheld, one following an appeal by the respondent.	Apology by way of personal statement for each complaint. Suspension for two sitting days for the first complaint, and three sitting days for the second.
<u>Margaret Ferrier MP</u>	22 May	Code of Conduct	Appeal dismissed	N/A
<u>John Nicholson MP</u>	20 June	ICGS: Bullying and Harassment	Complaint not upheld following appeal by the respondent.	N/A
<u>David Warburton MP</u>	4 July	ICGS: Sexual Misconduct	Reinvestigation ordered following appeal by the respondent. ²	N/A

¹ Independent Expert Panel (IEP) – [Reports into ICGS cases](#)

² The complainant subsequently withdrew from the reinvestigation ending the complaint.

Report	Date	Remit	Outcome	Sanction determined by IEP (if any)
<u>Sir Gavin Williamson MP</u>	4 September	ICGS: Bullying and Harassment	Upheld following appeal by complainant.	Apology by way of personal statement.
<u>Christopher Pincher MP</u>	4 September	Code of Conduct	Appeal dismissed	N/A
<u>Mr Peter Bone MP</u>	16 October	ICGS: Bullying and Harassment and Sexual Misconduct.	Upheld following appeal by respondent.	Suspension for six weeks.

Issues arising from decided cases

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".³ Its main means of doing so is via the decisions it makes on individual cases, through the promulgation of those decisions in its reports and the consistent principles which can be identified from those decisions. The circumstances of each case are unique, but the principles and approach may be clearly discerned. There are several points emerging from the cases decided in 2023 that may be relevant to wider discussions about the House's culture or processes, and the Panel's approach to deciding cases.

The role of effective sanctions in maintaining confidence in the House

The sub-panel in one Code of Conduct appeal decided in 2023 stated that:

*The essence of this disciplinary process is [...] not punishment. The objective is the maintenance of public confidence in the reputation of the House and the integrity of its Members. [...] The reputation of the House will always be more important than the consequences for an individual MP.*⁴

Sub-panels deciding sanctions will always consider the relevant mitigating, and aggravating, factors.⁵ They will also keep in mind that where possible sanctions should "incorporate positive steps aimed at improving the culture and behaviour of Members, staff and the wider Parliamentary community."⁶

Where serious misconduct has been proved meaningful sanctions are necessary to maintain public confidence. In the short-term, reports into individual cases may add to a public sense that misconduct amongst MPs is too prevalent. But

[...] it is obviously fallacious to suggest that the reputation of the House will be improved if suspension is avoided in a case [of serious bullying and sexual misconduct]. Indeed, it is critical to the reputation of Parliament that the House has grasped the nettle and instituted a

³ Quoted from the IEP's Guiding Principles, see IEPs *Guidance for the parties on appeals, referrals and sanction under the ICGS*, November 2022, Part B.

⁴ IEP, *Appeal by Margaret Ferrier MP*, HC 1400, 22 May 2023, paragraph 2.25

⁵ A non-exhaustive list is set out in the IEPs *Guidance for the parties on appeals, referrals and sanction under the ICGS*, paragraphs 57 & 58.

⁶ *Ibid*, paragraph 54

*system by which bullying can be called out and properly sanctioned. [...] the system brought in by the House will only retain credibility if the sanctions imposed are fair but sufficient to mark the gravity of what has happened.*⁷

When determining a significant sanction, such as suspension, sub-panels are conscious of the impact on the MP's constituents. Suspension temporarily removes their democratic representation and reduces the effectiveness of the services their MP can provide. This means suspensions are kept to a minimum; and are significantly lower than might be expected for similar misconduct in professions such as medicine.⁸ However, the effect of a suspension on an MP's reputation and standing is very considerable. The fact that an MP's suspension has an impact on their constituents, "brings home to the constituency as well as the wider public that the conduct is inconsistent with the behaviour to be expected and demanded of Members."⁹

Several MPs have argued before the IEP that their previous good character and record of service for their constituents should be treated as significant mitigation in determining sanction. However, the public rightly expects all MPs to be of good character and to work diligently on behalf of their constituents.¹⁰ Meeting these legitimate expectations can therefore only be of limited mitigation, especially when balanced against maintaining public confidence in the House and MPs in general.

Reinvestigation

A sub-panel used its powers to order that a case be reinvestigated for the first time in 2023.¹¹ This followed a successful appeal by a respondent MP. The Panel's guidance states that such cases are "exceptional".¹² In this case the sub-panel considering the appeal found that it was "necessary and proportionate" given the initial investigation had been "inadequate"; the serious nature of the complaints against the respondent and the issues he had raised in his appeal.¹³

Given that the complaint and the fact the respondent had appealed the Commissioner's decision were already public the sub-panel decided it was appropriate to publish a report

⁷ IEP, *The Conduct of Mr Peter Bone MP*, HC 1904, 16 October 2023, paragraph 4.22

⁸ IEP, *Appeal by Christopher Pincher MP*, HC 1802, 4 September 2023, paragraph 2.30

⁹ *The Conduct of Mr Peter Bone MP*, paragraph 4.24

¹⁰ *Appeal by Margaret Ferrier MP*, paragraph 2.21

¹¹ IEP, *The Conduct of David Warburton*, HC 1690, 4 July 2023

¹² *Guidance for the parties*, paragraph 36

¹³ *The Conduct of David Warburton*, paragraph 1.8

summarising its decision. However, the sub-panel decided it would be inappropriate to publish its full decision until the complaint had concluded so as not to prejudice the reinvestigation.¹⁴

Following the complainant's decision not to engage with the reinvestigation, which thereby ended the complaint, the Chair of the Panel decided that it would not be in the public interest to publish the sub-panel's full decision.

ICGS policies and “legitimate political debate”

The Panel considered two cases under the Bullying and Harassment Policy in 2023 in which both the complainant and respondent were MPs. They demonstrated that the application of the ICGS policies must take into account the context in which the alleged conduct occurred. This is particularly true when the conduct is part of public political debate between Members.

In the first case, which related to an opposition Member's liking of tweets about a Minister's performance before a select committee, the sub-panel noted that “political discourse, and in particular political opposition, can involve behaviour which, in a different context, would be regarded (at least) as offensive or insulting, and sometimes intimidating, without constituting an abuse or misuse of power.”¹⁵ It concluded that:

The Bullying and Harassment Policy must have been intended by Parliament to be interpreted so as not to impede or prevent proper opposition, or proper and vigorous defence of government policy. The context of this case is far removed from a case of a Member alleged to have bullied a member of staff, or indeed from a case of behaviour between Members in private, or simply as colleagues. As in so many cases, context is vital to understanding a case and applying these tests. We emphasise that there are limits to behaviour even in the context of heated debate between government and opposition, [...].¹⁶

The second case centred on private messages sent between a Government backbencher and the then Chief Whip. The sub-panel in that case drew an explicit distinction between it and the earlier case, noting that the messages were not just “rude and aggressive ... offensive and intimidating” but were a very personal attack on, and threat to, the

¹⁴ *The Conduct of David Warburton*, paragraph 1.11

¹⁵ IEP, *The Conduct of John Nicholson MP*, HC 1561, 20 June 2023, paragraph 2.39

¹⁶ *Ibid*, paragraph 2.70

complainant. It “was not just a party matter or a simple political difference. It was direct action by way of threat to her personally.”¹⁷

The sub-panel in that case also stressed that the definition in the ICGS policies that bullying involves “an abuse or misuse of power”, does not require the respondent to be in a position of formal authority over the complainant.¹⁸ The respondent had authority as a senior backbencher, and knowledge and status as a former Chief Whip. Both were sources of power that he had sought to use against the complainant.¹⁹ Notwithstanding those facts the sub-panel also warned that all MPs wield power derived from their position, and “should exercise their power and status as elected representatives responsibly and with integrity.”²⁰

¹⁷ IEP, *The Conduct of Sir Gavin Williamson MP*, HC 1801, 4 September 2023, paragraph 2.35

¹⁸ Independence Complaints and Grievance Scheme, *Bullying and Harassment Policy for UK Parliament*, 2022 edition, paragraph 2.3

¹⁹ *The Conduct of Sir Gavin Williamson MP*, paragraph 2.37

²⁰ *Ibid*, paragraph 2.38

Panel members' fees and expenses

The tables on the following pages set out the fees and expenses claimed by each Panel member during 2023. These are published quarterly in arrears on the Panel's website.²¹

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. Most routine sub-panel meetings and other work happen remotely, and Panel members have been provided with secure Parliamentary IT equipment to facilitate this.

The fees paid to individual members vary according to the number and complexity of cases they have undertaken. Panel members also contribute time and expertise to developing the Panel's practices and procedures, and the wider ICGS. The Chair, Sir Stephen Irwin, has additional responsibilities to co-ordinate the work of the Panel and sub-panels, and to engage with the parliamentary community on behalf of the Panel.

The Panel is supported by a secretariat of House staff, consisting (as of December 2023) of the Secretary (Band A1 Senior Clerk, 0.8 FTE), the Deputy Secretary (Band A2 Senior Clerk, 0.2 FTE) and a Committee Operations Manager (Band B2, 0.5 FTE).

²¹ IEP, [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	TOTAL
Jan 2023	£700	£700	£700	£3,150	£2,450	£700	£1,750	£1,050	£11,200
Feb 2023	-	-	-	£350	£3,150	-	£1,050	£1,050	£5,600
Mar 2023	-	-	-	£1,400	-	-	-	-	£1,400
Apr 2023	-	-	-	£1,050	-	-	£700	-	£1,750
May 2023	£1,400	£1,400	£2,100	£4,200	£1,750	-	£4,025	-	£14,875
Jun 2023	£1,400	£1,050	£2,100	£4,900	£1,400	£1,400	£1,400	£1,050	£14,700
Jul 2023	£3,850	£1,050	-	£1,400	£2,450	£1,400	£5,950	£1,050	£17,150
Aug 2023	£700	£700	£1,400	£1,400	£700	-	£1,050	£525	£6,475
Sep 2023	-	£1,750	-	£2,800	-	-	-	£525	£5,075
Oct 2023	-	-	-	£700	-	-	-	-	£700
Nov 2023	-	-	-	£1,750	-	-	-	-	£1,750
Dec 2023	-	-	-	£700	-	-	-	-	£700
TOTAL	£8,050	£6,650	£6,300	£23,800	£11,900	£3,500	£15,925	£5,250	£81,375

Summary of expenses claims

	Lisa Ball	Monica Daley	Johanna Higgins	Stephen Irwin	Clare McGlynn	Dale Simon	Peter Thornton	Matthew Vickers	TOTAL
Jan 2023	-	-	£417.35	-	£350	-	-	-	£767.35
Feb 2023	-	-	-	-	-	-	-	-	-
Mar 2023	-	-	-	-	-	-	-	-	-
Apr 2023	-	-	-	-	-	-	-	-	-
May 2023	-	-	-	-	-	-	-	-	-
Jun 2023	-	-	-	-	-	-	-	-	-
Jul 2023	£33.60	-	£559	-	£385.60	-	-	-	£978.20
Aug 2023	-	-	-	-	-	-	-	-	-
Sep 2023	-	-	-	-	-	-	-	-	-
Oct 2023	-	-	-	-	-	-	-	-	-
Nov 2023	-	-	-	-	-	-	-	-	-
Dec 2023	-	-	-	-	-	-	-	-	-
TOTAL	£33.60	-	£976.35	-	£735.60	-	-	-	£1,745.55