



Committee on Standards

Oral evidence: [House of Commons Standards Landscape, HC 247](#)

Tuesday 6 February 2024

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Members present: Ms Harriet Harman (Chair); Alberto Costa; Allan Dorans; Philip Dunne; Sir Michael Ellis; Yvonne Fovargue; Sir Francis Habgood; Dr Michael Maguire; Mehmuda Mian; Dr Rose Marie Parr; Victoria Smith; Carys Williams.

Questions 192-237

Witnesses

I: Mike Clancy, General Secretary, Prospect, and Dave Penman, General Secretary, FDA.

II: Right Hon Penny Mordaunt MP, Leader of the House of Commons, and Alex Burghart MP, Parliamentary Secretary, Cabinet Office.

Written evidence from witnesses:

- [Prospect and FDA](#)
- [HM Government](#)



Examination of witnesses

Witnesses: Mike Clancy and Dave Penman.

Q192 Chair: This is an oral evidence session for the Committee on Standards' inquiry into the landscape of complaints and grievances and the regulations that apply to Members of Parliament in the House of Commons more generally. We are grateful to have two witnesses today; thank you very much for coming. Dave Penman has been general secretary of the FDA since 2012. Thank you very much for joining us. We also have Mike Clancy, elected general secretary of Prospect, also since 2012.

In recent years, the standards landscape has evolved significantly, including through the creation of bodies such as the Independent Complaints and Grievance Scheme and the implementation of broader cultural change programmes led by the House Service. You have both been positively involved in these developments. In your view, have they had a positive impact on the experience of your members as employees of the House? Have they achieved what you wanted to achieve, or should more be done? If so, what should it be?

Dave Penman: I suppose the context for this is where we started from in around 2018, when confidence could not be lower. All the reports, including the Cox report, made clear that there was a complete lack of confidence in the complaints process and the broader standards culture across Parliament. People simply were not complaining, yet hundreds came forward with examples of things that had happened.

In the context of that, you can see quite dramatic improvements in the confidence of the people we represent and House staff to challenge inappropriate behaviour. There is now, eventually, a fully independent process. This was one of the critical elements in building that confidence. One of the recommendations that came out was to take decisions on the outcome of investigations—and indeed the decision to investigate—away from MPs or areas where MPs and parties could have influence. That was one of the major planks that started the process of building confidence.

If you look at any organisation dealing with these kinds of behavioural issues in the workplace environment, none of them would think they have got it right. So I think that it absolutely has improved. There are significant signs of that, including in what House staff say themselves about responses they get and their confidence in the process and their ability to challenge. I do not think anyone would think that it is sorted or done.

There are still some big, significant issues—particularly in Parliament given its unusual nature and the power dynamics, different from those of ordinary employers, that play across the organisation—that we still need to think about in terms of how you would continue to improve them and deal with them. We may come later to the relationship with parties and the party processes. Yet even without all that, any organisation has got to say that this is always going to be a journey and always going to be an issue that you need to continue to look at and seek improvements.



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However, there is no doubt we are in a very different place from where we were in 2018.

Q193 **Chair:** Thanks. Mike, do you take a broadly positive view in the same way?

Mike Clancy: Yes, I would echo Dave's comments about the broadly improving landscape. However, in a few preliminary remarks, I should say that Prospect's membership here is in the public sector but primarily it is in the private sector. That gives us the opportunity to compare and contrast the way different employment challenges are addressed.

I would say that, as Dave has reflected, every organisation is on a journey here, including trade unions themselves, in terms of their culture, processes and procedures. However, process and procedure are a matter of dealing with symptoms and not necessarily of dealing with root cause, and root cause is the underlying challenge we have here in terms of the parliamentary context.

Everyone knows the vital job that Parliament does at the heart of our democracy and that needs respect. What it does not need is veneration, which takes it into a space that indicates it is more complex, only few can understand its dynamics and therefore it must be treated demonstrably differently when coming to issues that are commonly dealt with in workplaces up and down the country.

There is an important difference between respect for parliamentarians—we remind ourselves that the vast majority of parliamentarians conduct themselves in a way that everyone would be impressed with—and unquestioning veneration. At the heart of it, I think there is still work to do on culture. Culture starts with leadership and there has been a spectrum of leadership across the lifetime of this Parliament, not all of which has maybe been conducive in the public eye to a strong ethical approach to Government. That leadership then creates the atmosphere in which personal dynamics at work play out.

Definitely, we think there has been an improvement and the independence of this process is vitally important. However, I would say that if Parliament, as it does, makes laws for the workplace, its own approach to the workplace needs to be of the highest standard. That is where we need to continue to work on the underlying culture.

Q194 **Sir Michael Ellis:** Mr Clancy, surely you cannot imagine that the members of the society of this country venerate Parliament and parliamentarians. Are we not in a situation where the contrary is the case? You talk about the ethics of Government. We are talking about the legislature here, which is different from the Executive, and I would urge you to bear that in mind. Do you and Mr Penman both accept that when allegations are made, for your members anywhere in society as well as for anybody else, it is important to bear in mind that people are innocent until proven guilty and that there must be safeguards both ways?

We have a complex system at the moment. You say in your written



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evidence that you accept the standard system is complex, but you think that is legitimate to ensure that complaints are handled properly. Is it important to you that, both for your members and for anybody who is not a member of your unions, people are considered innocent until proven guilty and that there are safeguards both ways?

Mike Clancy: Of course; that is an underlying principle of the law at large and, indeed, workplace procedures. The point about how the public see Parliament is that the number of issues that there have been across this parliamentary time has undermined the standing of Parliament in relation to those issues, notwithstanding the point I made that the vast majority of parliamentarians conduct themselves absolutely appropriately.

Now, I would argue that sometimes complexity is used as a means of obfuscating the underlying challenge—by which you can strip away complexity and bring it back down to simple things. Yes, people are innocent until proven guilty, but you can create processes whereby the parties are able to be separated.

We have argued for precautionary exclusion as a key principle of these processes, so that everybody has confidence that if an issue arises not only the person who may be the subject of the complaint, but the person who makes it, are treated appropriately. These are common features of workplace procedures up and down the country. They are the same principles, bearing in mind innocent until proven guilty can apply.

There is always a degree of timescale challenge, because complex matters take their time to work through, but equally you should keep an eye on the clock. The longer these things go on, the worse it is both for the person who has made the complaint and the individual who is the subject of it. It is beholden on all of us to work at an appropriate pace against that background principle, but recognising that certain things need to be done in a certain way.

Dave Penman: As a union, we represent some of the most senior managers across public services. Probably about half of our casework relates to people who have accusations made against them as managers; the other half are people who are doing that.

We absolutely understand the responsibilities on all parties when you have a situation where you have a complaint—for instance, you have someone complaining about someone else in the workplace. The dynamic around that can be quite extreme. As is the case here, a person can have a public profile and any breach of confidentiality can have a hugely disproportionate impact. We absolutely understand that, which is why we talk about the importance of confidentiality for all sides in our evidence, too. Sometimes that is breached; sometimes parliamentarians are quite happy to speak publicly about issues that employees would not have the ability or willingness to speak about or which may create problems in the context of their employment.



The heart of this has to be a confidential process. I do not think there is any challenge from either side on that. When we helped to design and influence the process from the start, we understood that we had to build confidence in parliamentarians in the process, as well as in employees and their ability to challenge. If parliamentarians felt that this was not a fair system, we would not have a system in place in the first place. So, understanding the dynamics for everyone involved in a process—those making accusations and having the confidence to do that, and those who are subject to the accusations feeling that they are also subject to a fair and confidential process—is absolutely vital to keep the confidence of all parties in the process.

Q195 Sir Michael Ellis: I am glad to hear you say that. It has been my experience as a lawyer that trade unions robustly defend their members using the full extent of the law available to them when they need to do so.

On your point about public profile, Mr Penman, do you accept that Parliament is different from a normal workplace, by its make-up and the public nature of it, and by the fact that in certain cases there may be a risk of politically motivated issues arising even within the same party structures or externally? That factor has to be borne particularly in mind when it comes to investigations relating to the legislature.

Dave Penman: Of course. There is a public profile in relation to parliamentarians that in most workplaces does not exist. In terms of processes, parliamentarians are not employees, and therefore cannot necessarily be compelled in the way that employees can. There are an awful lot of different dynamics at play in Parliament—how you would normally deal with this sort of issue about behaviours, which is what most of this stuff is about, in a workplace environment. Of course, we have to understand those different dynamics that are in play.

There are different power dynamics at play, too. If you talk to employers you also find, as we do—we have worked with hundreds of different employers—that anyone who has a complaint made against them will feel that there could be a different dynamic at play. You could be a manager dealing with poor performance and feel you are being accused of bullying.

While you have a dynamic around a political motivation, in other workplaces there could be other motivations that can be seen to cause people perhaps to make a false or vexatious complaint—and employers and processes are used to dealing with that. It is not something that is completely unique.

Some of the context might be unique, but for most processes we deal with, we would be able to filter those issues out. We would be able to deal with those issues of potentially other motivations for complaint and be able to deal with that as part of a decision-making and investigatory process. Yes, there are differences, but I do not think they are that unusual or that they do not actually create analogies to how other organisations deal with some of these issues as well.

Q196 Allan Dorans: Good morning, Mike and Dave. I am Allan Dorans, Member



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of Parliament for Ayr, Carrick and Cumnock. My question is about the Recall of MPs Act 2015, which allows that, in certain circumstances where a Member of Parliament has been sanctioned for a certain number of days, a recall petition is applied for and granted. Do you receive any feedback from your members on that sanction, and would you recommend any changes?

Mike Clancy: Our view is that the recall Act is a potent sanction. As to how well it and its processes are understood, I think there can always be a better illumination of that and of how it can be deployed. Again, being balanced in relation to the impact for Members, this is a dramatic end point that you do not want to get to, and it has all the associated public notoriety.

It is far better that we spend our time on the originating space here and on the culture so that we do not get to that, but our view is that the recall Act does the job. Could it be better understood? Absolutely. Could there be any waypoints on the sanctions that are available? All that being understood, it is important both for Members and those who may be making the complaints.

Dave Penman: It is the equivalent, essentially, in terms of outcome, of someone being sacked in a workplace scenario. That being a potential option as a consequence of behaviours is really important. I think Peter Bone was the first one who has faced that as a result of a complaint that has gone through this sort of process. For employees and other parliamentarians to know that that is a potential outcome—any employee knows that, depending on the nature of their behaviour, they potentially could be sacked—is really critical.

Obviously, it is not just about these issues and behaviours, and the issues that our members would face, but the idea of having that ultimate sanction in the extraordinary context of how you enforce that sort of sanction against an individual who is an elected parliamentarian. That is really critical. It is a welcome addition to the sanctions.

As Mike said, there is a range of sanctions—everybody knows that—but there are times when that has to be, ultimately, the potential sanction as a result of the consequences of suspension. Everyone knowing that means they know there is this potential outcome that would be the equivalent in any other employment context of the potential for dismissal.

It is not perfect because obviously it is not guaranteed; there may be circumstances in which any other employer faced with that evidence might make the decision to dismiss someone, but that decision is not taken, but it is a process that can lead to that. Given the context of elected parliamentarians, it is probably as close as we can get, and it is a really important and vital signal that, actually, like a number of sanctions that have come through, and in quite high-profile cases, there is not a sense that people can essentially escape the consequences of their actions. That—about the broader issue of culture—is really important.



Q197 Mehmda Mian: I am Mehmda Mian, a lay member. In your written evidence, you argue that the ICGS and the Independent Expert Panel are “insufficiently understood” by potential users and the public. You go on to suggest that staff in Parliament could play a role in promoting or explaining the role of the different bodies in the landscape. Could you expand on what you mean by that? There may be benefits, but do you consider that there could be some potential risks to giving House staff this public-facing role?

Dave Penman: One of the difficulties is that if you are an employee—our members—of the House, there is a number of ways that you can raise a concern about misconduct. The latest people survey of parliamentary staff suggested that nearly half of them raised an issue with a manager. You would expect that in an employment context. There are obviously other options; you could go to HR, and again, that is what you would get elsewhere.

It was only about 5% who, when you were talking about bullying, actually went straight to the ICGS. It is a kind of overlay of dealing with issues that would normally be part of a normal HR process within any other employer, and it is a consequence of where we ended up and the complexity of the make-up of Parliament—not just employees, not just parliamentarians but other staff here.

I think that that adds a level of complexity. So, you are a member of staff and you have a concern; how do you go about addressing that? Do you pick? Do you choose? Do you think about which one is going to give the best outcome? Do you just respond? Do you want to talk to someone? How do you deal with this? I think that, for us, it is about that sense of saying, “Look, what we want people to have is a range of options.”

Clearly, talking to your line manager is something that, as that is a kind of pastoral role, should be part of the process, but sometimes staff may feel that they want to go somewhere that is more independent, more confidential, and that they can seek advice and guidance from. That explanatory process about the framework—about how, if you are concerned about how you are being dealt with, how do you understand what those routes are, what they give you and what your choices are—is something we could probably do a bit more work on.

On the public-facing side of it, we are mainly a civil service union in the FDA. We also cover the NHS but, in the civil-service context, there is that element that, when something happens publicly, such as a Member of Parliament or a Minister saying something about the civil service, the civil-service instinct is to kind of hunker down. And, because it is difficult to talk about individual circumstances when it comes to this, there is a bit of a tendency for public sector organisations not to feel confident about moving into that public realm or about what it means to be able to do that. You need to put a face to some of this stuff for it to be picked up, so who is going to be the person who is the “defender” in the public realm?



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For all of those reasons, there is a hesitancy about publicly defending processes, particularly around things such as delays, and we feel that more could be done on that. It is not easy; I understand that. We end up quite often being the defenders of impartiality in the civil service because no one else will stand up and do it. And it is something that has to be taken seriously as well—it is not something that you can dip in and out of. However, I think that everyone would feel greater confidence if there was someone in the public realm prepared to defend and respond when there are unfair criticisms of the process. I think that that was what we were hinting at in our evidence.

Mike Clancy: What I would add to that relates to what I said at the outset. I think it would behove Parliament well, those who work here in the different in different guises, if we spent more time talking about the culture and the standards that everybody wants to see, and how everybody—no culture is perfect and it is always a journey—wants to ensure that Parliament is known for that, as opposed to needing a public face for a procedure that deals with a set of outcomes that are uncomfortable. There needs to be that. People need to be signposted to where they can find conversation resolution.

Again, our experience is that, where this is handled best, the workforce and their representatives are involved in the construction of the processes. However, the precursor is to look at the culture. What is the leadership saying about what it wants from its organisation? How does the leadership, in its different guises, live that daily? Then, from there, you talk about, "If something goes wrong, how open are we to exploring it?" All leaders can—and should—be concerned that their leadership style, and what they have done, may be called into account. That is the nature of leadership, and it is not comfortable, at all, when you think that you have done the right thing or you actually think that you are beyond reproach.

That goes back to my opening point. There is a difference between respect and placing yourself in a category where your judgments are in some way seen to be beyond the comprehension of broader civic society because it is parliamentary business. I think that we should concentrate on that, and then any expressions of the processes for remedy are seen within a positive environment of cultural change over time, as opposed to, "If you've got a problem, here's where you deal with it."

In the next phase of this, we would do well to spend time focusing on what the standards are and how that is led from the Prime Minister onwards, through the parliamentary community and into the political parties at large.

Q198 Dr Parr: Good morning, gentlemen. My name is Rose Marie Parr. I am a lay member of the Committee. I would like to ask you about the Nolan principles. This relates to your answer about leadership, Mike, and to the Code of Conduct and where this Committee really has its principles. Is there anything more that Parliament could do to embed those seven principles of public life in its work? For example, should the oath that MPs take when they enter the House be supplemented by a declaration to



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abide by the Nolan principles? Do you have any comment on that?

Mike Clancy: Anything that is done to remind those of us who hold different offices of the standards of the organisation that they are leading and what is expected has got to be valuable, but really, ethics and standards are a daily dynamic. They do not reduce to signing a piece of paper. They are about who you are and what you want to be in a workplace environment.

One of the things I marvel at and wonder about is why we have a debate about standards in the parliamentary estate, but then a debate about what might happen in 1 Victoria Street, where there might be a different set of arrangements because you hold ministerial office. Those sorts of questions, which continue to be a source of debate, undermine the very notion that you have signed up to high-meaning principles in the first place. If you debate that sort of thing, you are saying, "Actually, a quarter of a mile makes a difference—if I'm a Minister, because I report to the Prime Minister, I'm in some way different." Those are the sorts of dynamics you need to keep a very careful watch on repeating, because you are undermining whatever you might have signed in the oath in the first place.

So the more we can be reminded of the importance of those things—yes—but what it comes back to is that you want an open, accountable and transparent organisation, even though it is uncomfortable at times. That really is the guiding principle. You sign up to that transparency and that challenge. Yes, innocent until proven guilty—absolutely. But when you are holding office, you have got to be prepared to hear some things you do not like sometimes.

Dave Penman: I think a starting point for this is that the vast majority of parliamentarians do an incredibly difficult job and are as committed to the Nolan principles as any other public servant. It is not an easy role, and the route to get there is unusual in many ways, but the incredible public service that they do embodies all the Nolan principles. There was a recommendation in a report out last week talking about the ministerial code and potentially signing an oath. If you think that is going to make a difference, you probably have the wrong people doing it in the first place. You are either committed to those principles or you are not.

We have touched on the point about culture and leadership. There are huge challenges there—mainly in the political party realm, if you think about how parliamentarians get there in the first place—about expectation, standards and ethics, how that applies, and the expectations for individuals; an effective mechanism for dealing with the fact that that does not apply for everyone, whether in respect of individual behaviours or of other issues that come in about their standards; and that being lived by everyone in the complex community that is Parliament. Our concern is particularly around the political parties and their role in leadership, and whether there is consistency, not just of message but on actual decisions and actions from political parties about enforcing those standards.



It is about looking at the broader cultural issue, rather than looking at the seven principles and saying, "Is there a way of reminding everyone about them?" Issues around how people conduct themselves are going to be there long before they sign up to a piece of paper when they are elected to Parliament, so political parties have a huge place in this about how they select people. From the beginning of that process, do people understand what the expectations are of public servants? Are they bringing that with them when they get elected? Are they having that reinforced and being reminded about that by parties, as well in Parliament and in the things that can be done around the other elements of infrastructure about continuing standards? It is about dealing with these broader cultural issues and trying to ensure that we maintain what we need to keep reminding ourselves are the extraordinarily high standards that already exist for the vast majority of people—we end up talking about the exceptions rather than the rule.

Q199 Carys Williams: Good morning, I am Carys, one of the lay members. We received evidence suggesting that there is an appetite to make it easier for individuals to raise complaints in relation to MPs. That could be a web page explaining all the different regulatory bodies that MPs have, or some sort of interactive signposting, like a dynamic decision tree, that would help somebody understand where they could take their complaint, or a portal that would do all the work and route complaints to the right place. What are your reflections on these ideas?

Mike Clancy: In other places—again, we have a variety of experiences—we would say that human intervention is pretty important early on. A place where you are signposted and where you can collate or compose your issue clearly is welcome, but often the most important thing is for people to have trained people to listen to them and explore the issues at an early stage, and seek an informal resolution. That is one of our guiding principles in any workplace when issues between people have arisen: "Is there a genuine misunderstanding, and is it resolvable without having to go to a formal process?" It is about culture, and it is about people understanding who will handle this.

One of the interesting things is the concept of delay, whether delay is a natural part of all of these processes that we have to put up with, and the impact on the different participants. There is a degree of that, but in our experience, delay is entirely a consequence of time and resource. What time and resource are these processes and procedures supported by? Because that will aid delay. That goes back to the question of where people go in the first place.

So, yes, streamlining something has got to be good, and clarity, such as through a portal, is helpful, but in that environment you also have to try to ensure that the different aspects of this are understood. There are the avenues for resolution on bullying and harassment, but there can also be mixed-event issues, where a complainant may have a view that is more akin to whistleblowing and is about propriety in terms of procurement or something of that nature. This portal will need to be capable of sifting and handling that pretty well.



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Dave Penman: I think there are two elements here. As we have talked about, there is a more complex infrastructure for Members' staff who want to raise a complaint about how they do that, and that does not apply in most employers. What are the options if you have concerns about behaviours? Do you go to managers? Do you go to HR? Do you use the ICGS system? What would you do and how would you deal with it? How would parties deal with it? With the complex framework around all the different players that you have on the parliamentary estate, they have access to ICGS rather than it just being one employer. All those things, as well as individuals' choice and confidence, can mean that the answers can be quite complex and difficult to work through. Anything that helps and supports people and guides them through that is really helpful.

The other thing I would say is that all the evidence, not just here but across the economy, shows that people essentially do not make vexatious and malicious complaints. Complaining about behaviour is about complaining about an abuse of power. Bullying and harassment is essentially that, at its core. It is very difficult to challenge people who are very powerful, whether that is in an employment context or with respect to some of the most powerful people in the country, as the public would view the people who inhabit the parliamentary estate. Anything that can help people understand that and understand what would happen if they raised a complaint, perhaps in a more confidential arena, potentially with aids that people could work their way through without having to speak to someone before they have to go through with it, I think would be helpful.

As unions, we represent people who go through this process, both in other employment contexts and here. We see how difficult and traumatic it is for them to challenge some of these behaviours. There are huge consequences for everyone involved in the process, but particularly for the person who has to go through it. Anything that can make that easier and can perhaps give people support and greater understanding before they take the really difficult step of raising a complaint can only be welcome.

Q200 **Yvonne Fovargue:** Morning. I am Yvonne Fovargue, MP for Makerfield. You have already said that there are lots of different places where people can go to complain, one of which is political parties. Have you received any feedback from your members on the political parties' complaints processes, and how those interact or compare with the processes in Parliament?

Mike Clancy: We are not really clear how well developed the complaints processes are within different political parties. To some extent, that is where the conversation can become too partisan. Both of us are politically independent trade unions and proud of that. I say "partisan" because I do not want to lead us into a conversation of criticising one political party over another. The issue is, though, that there is a clear interplay between events that can happen in the party political sphere off the estate and the consequences for individuals who come into contact with people on the estate.



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We would certainly take the view that there need to be much better processes and commitments to notification in an appropriate way if an issue has happened off-estate in the party political—constituency or other—environment. It comes back to the simple point that parliamentary staff are at work. This is a workplace, whether it comes to their health and safety, their confidence in their ability to go about their day, or their obligations to parliamentarians—let's not lose sight of that. I think more needs to be done about having a joined-up approach here, where the political parties are committed.

Ultimately, this should be something that political parties, Ministers and so on want to do, because it breeds confidence in their credentials as people and as parliamentarians. It is difficult to see why this would be a matter of debate and why there is any delay over these things, because it will aid all of us if we move in the direction of demonstrably committing to a culture change—a culture of confidence, and one where a clear set of principles absolutely applies, wherever the event might happen.

Dave Penman: It is difficult for us, because we do not represent the staff who would make complaints to political parties. We are keen observers, because we know it has an impact, in terms of the context, around Parliament and our members. I am not sure, if I were an employee of a party working for an MP, that I would feel confident about raising a complaint. It is a very small employment context. When you look at what has happened with complaints, I think there is a much more mixed picture around transparency, delays and sanction. We have seen parties refuse to withdraw the Whip in circumstances where in any other context there would have been a sanction against an individual while the issues were investigated. There also seems to be inordinate delay.

One of the concerns is that we come back to the point about the Nolan principles and ask, "What messages are the parties are sending if that is the case?" If there is no confidence in their own procedures, if there is a lack of consistency about their procedures, and if there are complexities about those procedures and other procedures that people can raise complaints under, then it muddies the waters and leads to accusations that they are not being taken seriously.

That goes back to the point about looking to party leaders and saying: "Are you showing leadership here, across Parliament, for these standards that parliamentary staff are looking for, when actually there are perhaps inconsistencies in how you are dealing with that within your own party?" Those issues around how the parties handle complaints inevitably have a consequence when it comes to people looking and asking, "Is Parliament serious about making these decisions?", when they see that with those things that the parties are absolutely, directly in control of as individual political parties, they do not seem to have got their house in order.

Again, it is an improving picture as well. You can see that with some of the leaders. There are huge cultural issues there around leadership in political parties, the nature of those parties and the role that the leaders have. There have been, shall we say, some inconsistencies around that over the



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last few years, and all of the parties have been plagued by their own problems on it. But I do not think you would look at that across the spectrum of political parties, see how they are handling it and say, "What you say as party leaders and parties about leadership on this is actually being delivered in terms of outcomes."

Mike Clancy: May I just add something on that? Again, remembering the phrase about people in glass houses, I include trade unions in this. When you have an environment where people are passionate and convicted in terms of policy, political outlook, the workplace or whatever, it is very easy—I have seen it throughout my career—to forget that people management still applies. You are a people manager in different ways, whether you are a parliamentarian on the estate or you are back in your constituency. Actually, I think there is a gap here, in that we should ensure that parliamentarians and others related to this feel confident that they understand their people management obligations, they understand the law and they understand how civic society views certain behaviours in the workplace. Again, that goes back to dealing with the root cause.

I have had cause recently to say in my own organisation that sometimes the test of your culture is when you protect somebody you do not like; when somebody is being difficult with you but you have seen something done wrong to them and you therefore have to put aside certain personal viewpoints you might have about other issues that have gone on. People management is everywhere and we need to make sure that people feel confident and equipped to deal with it. Sometimes, if it seems like a minefield, the issue is actually to defuse that and help everyone to walk through it better.

Q201 **Yvonne Fovargue:** You have also suggested, Mike, that there should be some formal protocols agreed between political parties and Parliament, to get some consistency. What sort of thing would you like to see in the protocols?

Mike Clancy: Essentially, if a political party is investigating a matter in respect of which, in any common reading, it is worth informing the parliamentary estate authorities that there is an issue that could affect the confidence of people to work with an individual, that protocol would mean that that is shared in an appropriate way and at the right point so that a view can be taken. That then links to the question, which is not easy, of precautionary exclusion, which we have argued for and pressed for and which features in employment procedures up and down the country when issues of this kind arise, and on the basis of innocent until proven guilty. It allows for separation and for the space to engage with these things. Essentially, if something has happened over here, it is more than naive to think it does not have an effect over there, and political parties should be positive and want to ensure that these matters are communicated to other relevant authorities.

Q202 **Philip Dunne:** I am Philip Dunne, the Member of Parliament for Ludlow and a former Minister. I find this a really interesting session, and you have drawn on a number of comparisons between the employment environment



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and the environment here in Parliament. You are absolutely right that every MP is an employer of their own parliamentary staff of between two and five people. Yet no MP is an employee. That is the fundamental conundrum: the parties do not have an employment relationship with Members of Parliament. Ministers have an employment relationship with the Government and shadow Ministers with the leader of their parties, because they can be fired without cause. So there is that very clear distinction.

The other point is that all parliamentary staff—people who work for the House of Commons or the House of Lords—have their own employment structure. They serve MPs, but MPs have no employment relationship with any of them, even if you sit on a Committee. I do not employ Robin. Harriet has a relationship with the parliamentary Clerks here but cannot fire them, I do not think. As you said, it is a very complex situation.

You have referred to leadership setting the tone and I am sure you are absolutely right about that, but in the ministerial context you have pointed to the glaring anomaly between Ministers, the ministerial codes and the parliamentary codes. Having been a Minister, my sense is that the ministerial code is much tougher than the parliamentary one. You have much more transparency, and it becomes much more apparent more quickly if something goes wrong. I am looking at you particularly, Mike. Could you elaborate on what the problem is and how you think it can be addressed?

Mike Clancy: You covered the heart of the problem in your opening remarks around complexity, but I do think that complexity is sometimes prayed in aid as simply a reflection of entrenched understanding, as opposed to standing back and saying, “Is this complexity justified? Are these relationships, whether legal, contractual or otherwise, worthy of review, reconsideration and simplification?” That is a starting point.

Of course—there are lawyers around the room—there is also the question of vicarious liability, at least in concept terms, of a behaviour by an MP in an environment where a member of the House staff is an employee. The employer has a responsibility to ensure a safe, confident working environment. What MPs do in that space reflects the ability of the employer to provide that safe environment. There are many analogies in employment circumstances of customers and people in venues where behaviours have had an effect on employees and an employer cannot walk away and say, “Well, that’s nothing to do with us.”

Secondly, why would Ministers want to look different? Why would Ministers not want to be subject to the same standards in this estate as they are in a Government office? Stepping back from it, civic society is expecting more of all of us. I hope I have made the point very clear that all of us are expected to be better and more transparent. I think we all want your standing to be as high as possible so that the democracy and the law that you deliver is respected.

Fundamentally, you go back to: why do we have these things? Why is this paraphernalia in this way? Is it necessary for there to be differences? If



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the ministerial code is stronger in some respects, that is good—we want to level up—but I do not think that because you hold a ministerial stripe you should in some way be beyond the ordinary, as it were, responsibilities of an MP and called to account in the same way.

Dave Penman: Can I pick up that point you raised about the ministerial code? The ministerial code is completely and utterly inadequate for the purpose of regulating conduct among Ministers and civil servants. There is no process, no guarantee and nothing in writing. It is entirely at the behest of the Prime Minister whether it is investigated in the first place and what the outcome is.

We have seen Prime Ministers who have refused to sanction investigations because of political allies. We have seen Prime Ministers who have refused to acknowledge the evidence that is put in front of them. It all simply lies at the heart of a Prime Minister, and the political power and convenience that flows from that. If a Prime Minister is not prepared to act responsibly when it comes to ministerial misconduct, nothing can happen, and no civil servant can raise a complaint independently. So I would contest that there is anything in the ministerial code that is superior to what we have in Parliament. The issue and the dynamic around taking the power of regulation away from those who are regulated was at the heart of the ICGS system. That was the issue. That is why staff had no confidence in a process where MPs mark their own homework.

It is worse in the civil service when it comes to Ministers, because it is one individual who decides whether there is an investigation and what the outcome of that investigation is. There is zero confidence in the process for raising complaints. I say that in terms of a union that has serving senior civil servants and people who work closely with Ministers and have worked through representing people through processes where there have been investigations. If you ask anyone who was involved in the complaint—the most recent high-profile complaint was against the former Justice Minister—they would say that they would never go through that process again. So there needs to be a complete overhaul of the ministerial system. In many ways, a Minister would be subject to a much more robust process, investigation and sanction were they to behave in that way here than they would if they walked down Whitehall and did it in a Government Department.

Q203 **Alberto Costa:** Good morning, gentlemen. Thank you for once again coming before the Committee. I have a very straightforward question, then one or two follow-ups. I suspect that your answer is going to be yes to this. Would you support a provision to require all MPs to undertake management training as a condition of receiving IPSA funding to employ their staff?

Dave Penman: Absolutely. You become an MP with a whole range of experiences, and quite often management is not one of them. The support that you get structurally is questionable. Suddenly, you become an employer—I have talked to MPs about this challenge they have—and quite often there are issues around how you deal with all the pressures you are

facing as an MP, and you are also having to act as an employer. Therefore, understanding how to manage people well is critical, as it is in any other organisation.

One thing I would say is that if you look at what happened with some of the compulsory training that was done about behaviours in Parliament, there was a bit of pushback around that. There is an issue where people feel you are going through some kind of tick-box exercise around training, which allows you to criticise it, and it is seen to be part of a broader agenda. Sometimes the approach around compulsion can have a consequential response from people. That is the issue I would look at.

The question is: how do you upskill MPs to be better managers? Compulsory training may well be the answer, but I think I would look at what can be done. There are times when, for people who do not respond well to that, there are other ways of dealing with it. Whether MPs will respond in the right way to that training is a complex issue. There is no point in sending people for a three-day training course if they have entered that course on a basis of not being prepared to listen and learn anything. If they feel they are being compelled to do something against their will, you are not going to get the outcome from them in any event.

Mike Clancy: I cannot add much to that other than to sum it up as: MPs themselves need to own the belief that they want that training and, as an overall cohort, stand up to criticisms from certain elements of the media. As we are seeing on other matters now, the question is whether this is a form of woke behaviour being forced on reluctant MPs. We don't want to be adding to that particular bonfire. If MPs are able to approach this positively, that will make them better parliamentarians, make our democracy better, address root causes and, indeed, protect parliamentarians themselves, because you will then have the depth of understanding of these things. Nobody here is saying other than that this is a very demanding job, and sometimes, because you have demanding jobs, you need that bit of extra help.

Q204 Alberto Costa: Indeed. As a follow-through to the issues of training and understanding workplace disputes, may I go back to the questions asked by Sir Michael Ellis and the very helpful responses that you gave? In particular, Mr Penman, you said that the processes in the ordinary workplace take into account the motivation of the complainant. Sir Michael had raised that as a particular issue in this context, but you reassured us that, actually, in workplaces up and down the country, motivation and the reasons behind a complaint are taken into account in the process. Are you aware that the process adopted here by the Commissioner does not take into account motivation?

Dave Penman: If you investigate a complaint, you are going to look at what the reasons for that complaint are and what the evidence is. You are going to have a respondent—the person who is complained against—saying this is what happened and why. In any context where someone is investigating issues around behaviours, you are going to look at all those elements. You can accuse someone of a motivation, but there may be no



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evidence to support it. In any context of looking at these issues and disputes in a workplace, you are going to look at all those elements that are brought to bear and consider them.

As a manager, you may suspect that someone is raising a complaint of bullying against you because you are challenging performance, or another issue, but you may not have evidence around that. Yet you would expect an investigator to be able to look at that, because ultimately if you do not have evidence to support your complaint, that complaint cannot go forward.

When it comes to the complexities of workplace behaviours and all the things that drive people to raise complaints about them, there is a lot of stuff that goes on in relation to that in a workplace. There are a lot of dynamics and power dynamics at play, just like there are in Parliament. They may be slightly different in Parliament, but they are also different in other places as well, and you would expect any investigation to be able to filter out those issues and to come down to, "Where's the rub?" Where is the meat and any substance of a complaint? Is there independent evidence? Do you believe one person rather than another? This is not a criminal investigation; this is about the balance of probabilities. So how do you make those judgments?

It is about having confidence that the people conducting the investigations can deal with all those complexities—and they are complex everywhere—and then come up with a reasoned conclusion at the end of it based on the evidence that has been put before them.

Q205 Alberto Costa: I will just stop you there. Before I ask Mr Clancy to respond, both of you gentlemen have said that employment procedures up and down the country take these matters into account. You have also rightly said, and I have a great deal of sympathy with this, that this is a workplace, and if Parliament cannot adopt acceptable modern workplace procedures, we have an issue. But isn't the elephant in the room the fact that the one enormous difference between every other workplace and this workplace is that MPs are the only category of people in a workplace who do not have recourse to a court of law, and that every complainant ultimately does? When you talked, Mr Penman, about how, in a normal workplace, people would be sacked or dismissed for these events, those individuals—you said that you represented 50% of senior individuals facing these claims—have a recourse to an employment tribunal or another court of law, but MPs do not. What are your thoughts on that?

Dave Penman: They also have protections because they cannot be sacked, and they also have protection because they are not employees. I do not underestimate the challenges of being an MP, or how you may feel, as a parliamentarian, that there is an imbalance in some ways around these issues, but where is the evidence that, actually, this is resulting in vexatious and malicious complaints that are politically motivated?

You have confidence in a process that is independent. MPs should want an independent process because, if they are innocent, they actually would not



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want a party machine to say, "We're supporting you and looking after you." They would want an independent process that would look at all the evidence and say, "That complaint was vexatious, malicious, without foundation, misjudged or misguided," or that there was no evidence to support it. You would want that sort of independent process.

I do not believe there is a power imbalance that goes the wrong way for MPs in relation to what is going on in Parliament. I do not think there is any evidence to suggest that. Checks and balances are needed in any system, whether that is in Parliament or in any employer up and down the country. Again, I come back to the point that if you look at all the evidence and research of people raising complaints, clearly illegitimate complaints can happen but the vast majority of complaints are made legitimately.

Mike Clancy: I think it would be difficult to sustain, in the public eye currently, a view that parliamentarians are at a disadvantage. That said, if you are going to be a victim of a malicious or vexatious complaint, it may as likely come in the party political context in your constituency, due to factionalism, as it would on the parliamentary estate. So I think you have to look at that whole spectrum of behaviours.

Again, in the most developed workplaces, where we have good relationships, we do not shy away from the difficulties of talking about the inherent dynamics involved in these processes. For example, our representatives, our staff, with HR teams, would keep under review the body of casework that emerges from a particular process, and we would ask ourselves periodically whether that process needed to be altered or improved in the light of experience. So if, for example, taking your point, motivation is not sufficiently dealt with in current forms of the procedures, you would look at that in the context of, "Well, were there any questionable motives arising in the casework that came through the process to justify that there is a risk in the first place?"

Alberto Costa: Well, we wouldn't know that.

Mike Clancy: No, but—

Q206 **Alberto Costa:** Forgive me. This Committee, which adjudicates on breaches of the Code of Conduct, is not informed by the Commissioner about that, because the Commissioner himself does not take motivation into account, so we would not be able to adjudicate on that matter.

Mike Clancy: No, but today is also about looking ahead, I think, and my underlying point is that you keep all these processes and procedures under review on a joint basis to see where you can improve and adjust them over time. That might mean changing the boundaries of responsibilities, and it might change other things, but it might also mean that for those who want certain things, such as the precautionary exclusion of MPs in a situation where it is justified, that is also built in. So over time you look at these dynamics.



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No one would sit and credibly say it is impossible to contemplate a vexatious claim. Our procedures in my organisation made clear that if a claim was made that someone has been demonstrably vexatious—that is a high threshold; we must remember there are thresholds here—that would be taken into account. I think this is a design issue and you look at that over time, but I share Dave’s point that I would not project that as: “We have to look at this because MPs are disadvantaged in the power relationships.”

Alberto Costa: Thank you.

Chair: That brings to a conclusion your evidence this morning. Once again, can I thank you for your written evidence, oral evidence here and participation in the process of ensuring that we have high standards in Parliament? Thank you very much indeed.

Examination of witnesses

Witnesses: Penny Mordaunt and Alex Burghart.

Chair: Welcome to this morning’s second session of our inquiry into the landscape of regulations and complaints processes in the House of Commons. We have already received written evidence from the Government, which we are grateful for, and we will now have oral evidence from two Government Ministers: the right hon. Penny Mordaunt MP, who is Leader of the House of Commons, and Alex Burghart, who is Parliamentary Secretary in the Cabinet Office.

Thank you for coming to give evidence to us. We will start right away with a question from Michael.

Q207 **Dr Maguire:** Good morning; I am Michael Maguire and I am a lay member on the Committee. The Government’s written evidence states that the bodies and office holders who make up the standards landscape exist “for good reason”. However, the landscape is, in your terms, “frustratingly opaque”. We have heard evidence that it is fragmented, lacking in signposts and so on. Do you have a view as to what could be done about that? Is there significant scope for simplification, alignment or improvement in the architecture?

Penny Mordaunt: Yes, and I think that it is the job of this Committee to grapple with that, which is why I welcome the inquiry that you are doing. I think there are a number of issues, and there are an enormous number of standards bodies. I spoke to you about this issue in private about six months ago, I think. A quick count brings up 13 different organisations, but most Members of Parliament are not really sighted on those bodies. It is only if they encounter them in some particular capacity that they know about them. The rules are very opaque. There is not a great deal of training, or a one-stop shop where people can go to look at those things. So I think there is a general issue about awareness.



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There are, however, two further issues that I raised in my private session. One is that if we really want to arrive at what “good” looks like, we have to recognise that we are not dealing with one organisation; we are dealing with probably just shy of 700 organisations—individual Members’ offices, structures in Parliament, and Government, political parties and the wider landscape.

To take just Parliament, unless you have a well understood appreciation of what is expected of you, and your obligations to other people and to this institution, we will never get where we need to be. What has tended to happen is that people—Procedure Committees, Committees such as yours—will focus on a silo aspect of standards in gratuitous detail without making reference to the other things that will be going on around that particular organisation or set of rules.

While we have to respect the separate nature of political parties, Government, Parliament and the offices of individual Members of Parliament, we need a way of working together in a shared endeavour. Ultimately, that comes down to people understanding what the Nolan principles mean to them in their everyday life and what their obligations are towards the other people they work with.

Q208 Dr Maguire: What does that look like in practical terms?

Penny Mordaunt: It is more time spent at the top end; that that is embedded in training; and that people understand, when they are presented with particular situations that they might encounter, what the right course of action is. I think it is about training, greater clarity on the standards landscape and what people’s options are in particular situations. If you asked most MPs whether they would ever use cluster reporting, I do not think that they would have any idea what you were talking about. It is about bringing it to life for people.

I also think this is about showing that, in all those things, we have a modern approach, which is fit for the real world. That is fundamental to rebuilding trust with people. But it is more a concentration—we still have to do detailed work about the ICGS and all the different component parts, which have to work well. We have made progress in recent years on that front, but the overarching culture needs greater focus from this place.

Q209 Sir Michael Ellis: Leader of the House and Minister, thank you for coming. The Government suggest that users could be better directed through the different processes—for example, through the introduction of this centralised landing page. I want to ask you about that, but will you give a wider answer about the confidence that there might be? Is it just creating a single landing page that will declutter the system, or is it your experience as parliamentarians that there is confidence, or a lack of confidence, in the system that will not be corrected by a landing page?

If you think that there is not confidence in the system, how can we improve confidence? I think the Government’s written evidence talked about the need for improvement, but what would you say about the level of confidence within the parliamentary system, including parliamentarians?



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Minister Burghart, you have responsibility for the constitution in your ministerial portfolio, so perhaps you would address the point about the difference between the ministerial code and the MPs' position, because there seems to be some conflation about the constitutional position between the legislature and the Executive in some quarters. It would be helpful if you said something about that.

Penny Mordaunt: I will be brief, as the Chair asked us to be. In answer to your points, I would say three things. First, if we want people to be compliant with what they have got to report and the rules, we need to make it as straightforward for people to do that as possible. It is a complicated landscape, so there should be a great piece of communication, with checklists, so that people understand what they should be doing—it is not just the MPs, but their staff as well. Clearly, we are talking about Parliament and Ministers, but there are obviously obligations with regard to people's political lives, their parties, things they have to report to the Electoral Commission and so on.

Secondly, in all parts of the system, we need excellence. There is a separate piece of work, for example, on the review of the ICGS, but there are also issues around the length of time that things take, the quality of investigations and those sorts of things. We will never have confidence unless those things are excellent.

Finally, I think the whole piece would be improved by the different component parts of it having a deeper understanding of the obligations that those different parts make on an individual. I am a living example of that. I am Government's representative in Parliament; and I am Parliament's representative in Government. Actually, the same is true of every Minister. Obligations that may be placed on us as Ministers might put us in a difficult position as parliamentarians. So, for example, the greater there is in Government and among our civil servants about what the obligations are in this place, the better.

Alex Burghart: I completely concur with what the Leader of the House said. To your point, Sir Michael, the truth is that being a Minister is a different job from being a Member of Parliament. I am not being facetious when I say that not all Ministers are Members of Parliament; some are Members of the House of Lords. Ministers, technically, do not need to be a Member of either House.

The responsibilities I have as a Member of Parliament to my constituents and the responsibilities I have to Parliament are one set of responsibilities, but the responsibilities I have as a Minister, while they share certain core principles, are still distinct. As a Minister, I am accountable to the Prime Minister; the Prime Minister is accountable to Parliament; and Parliament is accountable to the country. I think we have to be clear that, while there are shared principles that will underlie any public office, they are different.

Q210 **Sir Francis Habgood:** I am Francis Habgood, one of the lay members of the Committee. May I pick up on the point that you made about the Nolan principles? One of the things we have been hearing about is what more we



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could do—we are thinking about this—to embed those principles in the work of MPs. One of the suggestions has been that when MPs take their oath when they start in Parliament, there should be some sort of declaration, signed or said, agreeing to the Nolan principles. You might have thought about other things.

Penny Mordaunt: I don't think those sorts of things will work. At various points in someone's journey to becoming an MP, they will have had all sorts of situations like that—when selected as a candidate and when going through those sorts of processes about whether you will behave yourself, is there anything in your past, and all that sort of stuff. I think that the oath swearing is a particularly important thing and, in my personal view, should not be interfered with.

I think it is more about telling people the kinds of situations they may encounter and what the right thing to do is in those situations. If when one of your colleagues has been arrested, you say to yourself, "I knew they were a wrong 'un", and if you see that a colleague is off ill with a mental breakdown, or has made themselves vulnerable because they are financially in debt, what have you done to assist that person and prevent a crisis from happening?

The tendency in this place is for us to only really grip things when they are in crisis or when it is too late. You can look back at where people have got themselves into difficulties and, in a huge array of those cases—including on the ministerial side—it will be because people have been going through some particular personal crisis. In those sorts of situations, if you are behaving according to those principles, what should your behaviour have been? It is really about bringing these things to life—these situations occur not infrequently—and thinking about what someone should do and what their options are in those situations.

One reason why I have been keen that in Government we stand up a ministerial HR function is that, in some of these scenarios, there has been no route for a Minister to flag issues, seek advice or raise concerns about someone they are deeply concerned about. It is the practical stuff.

Alex Burghart: I completely agree. I certainly would not advocate tampering or interfering with the oath at the start of Parliament. It has served us very well since the 13th century. The moment we start to add things to that, future Committees, future Governments and organisations will want to add more things; we should leave it as it is.

However, I came into the House in 2017. Looking back, I do not remember anyone sitting me down and talking me through these high-level expectations and what they might mean in practice. I hesitate to use the word "training", although training is sometimes appropriate, because it is something more general than that. That sort of introduction, both to the landscape in which you are expected to sit and the standards to which you can expect to be held, would be valuable for new MPs.

Q211 **Chair:** You identified a multiplicity of organisations in this landscape and



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the problem of them operating in silos. Obviously, that is a problem with overlap, duplication or even contradictory different standards, sending out different messages.

Would you be in favour of, and would the Government commit to participating in—given that the Government are part of this, having responsibility for the ministerial code—a forum that brought together perhaps once a year all the organisations in this field, so that they looked at what each other was doing and made sure there was no overlap or inconsistency, and that each was working to the best of their ability? How would the Government respond to that?

Penny Mordaunt: I have previously suggested that such a forum should exist that could bring different pieces of this together, and I think it should be flexible and focused on the outcomes or problems that we are grappling with. There are certain points: behaviour is one of them. That is not just about holding people to account; it is also about enabling people to have the right support and do the best job they can, both as parliamentarians and as Ministers.

There are also huge crossovers with regard to security, for example, and the integrity in protecting democracy. Tom Tugendhat is leading on a lot of work related to that, which is already working very closely with the House authorities. It is also about the political leadership in this place. To give you one example, the House authorities have an offer to political parties in terms of training for candidates coming through.

I am keen that anyone who arrives here as an MP has already had a bit of information about security, cyber security, standards in behaviour, where to find information, and other basic things, including HR issues—because by the time people get here they probably will have made some headway in recruiting people to be their staff here.

You stand a much better chance of getting compliance with attending those training sessions if you tackle candidates than if you tackle Members of Parliament, because as soon as you walk through the door you are bombarded with all sorts of other things. A forum and closer working together are good, and they should be focused on the very practical things that we are trying to achieve.

Q212 **Chair:** You will be aware of the problems that arose during the Privileges Committee inquiry into the conduct of Boris Johnson in terms of the adequacy of the disclosure of documentation, including WhatsApps. Do you agree that there should be an undertaking on behalf of the Government that they will agree a protocol with both the Privileges Committee and this Committee over the timely and full provision of information requested by either Committee when it is inquiring into the conduct of a Minister? Should a protocol be agreed between the Committees and the Government about what should be provided and the timeliness with which it should be provided?

Penny Mordaunt: This is probably one for Alex, but clearly, over the last few years, particularly with WhatsApps, there have been new ways of



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Ministers and people in general working together. Our rules and expectations should keep pace with that, and there is probably room for reflection on things that have happened both with Committees of the House and in Government with regard to WhatsApp messages.

Q213 Chair: What about the Government undertaking, to the parliamentary side of this, that they will give full and prompt disclosure, and there being agreement about time limits within that?

Alex Burghart: How would that differ from the current understanding? My understanding is that it is already understood that Ministers will cooperate with Select Committees and appear and give evidence, and that is a very long-standing understanding. How would this be different?

Q214 Chair: As we put in the reports that we made to the House during the inquiry into the conduct of Boris Johnson, first off we received documentation that was unusable because of the extent of redactions. It then took us a long time before we got the documents properly unredacted so that they could be usable for evidential purposes, and we did not receive full WhatsApp messages. We know that because we were able to see the WhatsApp messages that were disclosed to the public inquiry.

We have recent evidence of there being a problem. Beneath the general intention, parliamentary Committees actually did not get what was needed. I think everybody agrees that timeliness and transparency are really important principles to enable us to do our work on behalf of the House. It would just be a useful practical thing if, instead of the Government going away and talking about it internally, there could be an agreement between the parliamentary side and the Government side on how the Government will produce documents that are in their custody, but which are necessary for our inquiries. Just say "yes".

Alex Burghart: Well, I think that is something that the Government would have to consider very carefully, because if—

Chair: Perhaps you can get back to us in writing.

Alex Burghart: If the ask is that the Select Committee would always receive unredacted Government information—

Q215 Chair: No, the ask is, should we have a protocol? If you do not feel able to give an undertaking to agree to a protocol, you can write to us, but I think a protocol would be desirable. Everybody would be clear where they stood, what they were entitled to and within what timeframe. There would be clarity on both sides. But if you want further time to think about it, you can write to us.

Alex Burghart: Noted.

Chair: Thank you.

Q216 Carys Williams: Good morning. I am Carys, one of the lay members. In your written evidence, you helpfully drew our attention to the principles—



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based code of conduct in the Irish Parliament. Would you support principles-based regulation, in an attempt to simplify things and therefore make adherence easier, but also to remove some of the siloed regulation that we talked about earlier?

Penny Mordaunt: Again, I do not think that these things are going to get us where we need to be. It is not about more bits of paper or more codes or protocols or those sorts of things. It is about people having an understanding of what is expected of them and why. You can only really do that by, especially as Members of Parliament are coming into this place, getting them to understand the types of scenarios they might find themselves in. I think it is about deepening that understanding. More of the same is not going to get us that far. It is not because we do not have enough rules; it is because people do not understand what they mean to their everyday lives in this place.

Q217 **Carys Williams:** Forgive me if I was not clear. I was actually suggesting moving to principles-based rather than detailed, rules-based regulation. In effect, you would have certain principles—the Nolan principles, for example—that we would seek for people to adhere to. It would avoid us stymying innovation, leadership and that kind of thing. We would only have detailed rules where they were necessary for key, significant concerns.

Penny Mordaunt: Yes, but I think we do have—well, obviously we do have rules where they are necessary. I am not sure that just moving to a different framework without the other things I spoke about is going to have an impact. Also, I think people do like rules. They do like to know what they should and should not be doing and what they need to do practically to fulfil their obligations. They just need to be communicated better and in a more comprehensive, joined-up way, in my view. It is about bringing those to life and giving people real-world examples so that they can recognise them when they encounter them, and so that they know what their options are as well. There is a lot that the House has to assist people who find themselves in certain circumstances that I do not think people are really aware of.

Q218 **Alberto Costa:** Good morning. Thank you for coming before the Committee. Could I turn your attention to the register of interests, which you are both very familiar with as MPs? I have a series of questions on whether there should be greater alignment between ministerial declarations of benefits and hospitality received, and the register of MPs' interests, which we MPs all have to operate by.

Last year, the PM gave an undertaking to the Parliamentary Commissioner for Standards. He said: "As part of my commitment to open governance, I have asked the Cabinet Secretary to make himself available to you"—the Commissioner—"or the House of Commons Committee on Standards"—this Committee—"for a follow up conversation on the process for declarations." The Committee understands that no meeting has yet taken place between the Cabinet Secretary and the Commissioner for Standards. Can you confirm that the Government will co-operate with the Commissioner for



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Standards in moving the proposals forward?

Alex Burghart: I have heard nothing to suggest that the Prime Minister's wishes will not be fulfilled.

Q219 **Alberto Costa:** Can you give the Committee an indication of the timescale for fulfilling that commitment?

Alex Burghart: Allow me to go away and find that timescale out for you.

Q220 **Alberto Costa:** Thank you. Leader of the House, can I turn to a comment you made, I think back in March last year? I think you committed to publishing departmental transparency returns on comparable timescales to the Register of Members' Financial Interests, which is 28 days, as we know. What progress have you made on that?

Penny Mordaunt: On personal progress, I am reporting my returns monthly now. The issue I have is the format they are going to be published in. This is a classic example of what I was talking about earlier. Ultimately, at the heart of this desire is the general public, to whom we are accountable. They would like to know what we are up to and with whom. It could be the case that an MP and another MP who is a Minister attend the same event, but that one reports that two months later. We should bear in mind that this is about our accountability to the public.

For me, reporting monthly is a very easy thing to do; in December I had two items that needed to be reported. For other Departments, such as the Foreign Office, it is a much more complicated and lengthy procedure to gather all those bits of information. Understandably, the Government want to move forward in step and make sure they can report as a whole Government.

I am part of a pilot project to do monthly reporting. The Cabinet Office, with the Deputy Prime Minister, is working on a database that will enable these returns to be published. In the interim, clearly, I have my returns and I could put them on my website, or I could publish them in a WMS or on gov.uk, but in doing so I would not be keeping in step with my collective responsibilities with the Government. So I have my returns and am producing them on a monthly basis, and I am very happy to put them in the public domain. The mechanism for that is not available to me, though I am sure that it will be available in short order. I think that a database will be set up and that will enable all sorts of things to happen with regard to how the public might see these two things alongside each other. In the interim, we should work on another way of doing that. We could publish them on gov.uk or allow Members to publish them on their websites, if that were appropriate.

Alberto Costa: Thank you.

Q221 **Allan Dorans:** Good morning, Ministers. Following on from the last question, could you envisage a workable, simplified system whereby the interests of Ministers and MPs were reported to one entity and then published on the relevant registers of both?



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Alex Burghart: Once our new single platform for departmental transparency is available, that will effectively be publishing the raw data. Once you have got the raw data, and you have the raw data from Parliament, it will be very easy to put those things together. I am sure that if Parliament or Government does not do it, somebody out there will, because it will be a very simple task. This process of technological transformation will mean that, inevitably, there is easier alignment of the two datasets.

Q222 **Chair:** As far as the person who is reporting is concerned, could they report to one entity, so that they do not have to decide whether something is for the Electoral Commission or the Registrar of Members' Interests, or whether it is ministerial? Could you just report and then, at that point, have it sifted through for a decision where to publish it? At the user end, could there be more simplicity?

Alex Burghart: I would be interested to know what the Committee had to say on that subject. We have ministerial reporting, which is one job; MPs have one means of reporting and Lords have another means of reporting. Those bodies—

Chair: And there is the Electoral Commission as well.

Alex Burghart: Yes. Those bodies exist for a good reason, but if the forum meetings that you describe were to come about, that is the sort of thing that might be discussed.

Q223 **Yvonne Fovargue:** The Electoral Commission and IPSA told us in their evidence that their statutory status brings benefits in terms of clarity of remit, yet the Government rejected calls to place the role of the independent adviser on Ministers' interests on a statutory footing. Why should some standards bodies be on a statutory footing and not others?

Alex Burghart: The independent adviser has been around for 18 years and has not needed to be on a statutory footing to perform their function in that time. The other thing about the independent adviser is that they are an adviser. They are an adviser to the Prime Minister, because the Prime Minister is the ultimate arbiter of the ministerial code and ministerial conduct. In that sense, the most important thing is that the Prime Minister is available to police and adjudicate on the behaviour of Ministers.

Q224 **Yvonne Fovargue:** This role has sometimes been unfilled for quite long periods of time. Wouldn't putting it on a statutory footing make that less likely?

Alex Burghart: I don't think so, no. I don't think that there would be any real gain. As I say, for the past 18 years, the system has worked pretty well. I think that if you put it on a statutory footing, there is a danger that you invite legal action when none would really be necessary.

Q225 **Chair:** There are a number of positions that are essentially advisory that are on a statutory footing. For example, the Victims' Commissioner is on a statutory footing, but it doesn't have executive powers. Is that something you could include in your letter? Will you reflect further on whether or not



it could be statutory?

Alex Burghart: Yes.

Chair: Thank you.

Q226 **Mehmuda Mian:** Good morning. I am Mehmuda Mian, a lay member. The independent adviser has the power to initiate investigations into potential breaches of the ministerial code, but only after consulting the Prime Minister. There is no such restriction on the Parliamentary Commissioner for Standards in Code of Conduct cases. What is the justification for the consultation requirement?

Alex Burghart: As I say, it is because we believe it is very important that the Prime Minister's ultimate role as arbiter of the ministerial code is maintained. The adviser is someone who can advise him, but ultimately it is his job.

Q227 **Mehmuda Mian:** So what would the independence in the title "independent adviser" signify to a lay person or the general public? Say an adviser, who has had the time and the opportunity to go through all the evidence, presents a report to the Prime Minister saying one thing, but the Prime Minister decides, on a whim, that he or she is going to go against the independent adviser, who spent time and effort collating evidence, investigating—

Alex Burghart: Well, to emphasise the word "adviser", they are an adviser to the decision maker, and the decision maker is the Prime Minister. The Prime Minister is accountable to Parliament and, ultimately, to the electorate. That was how the role was always envisaged—as someone to help the Prime Minister in their role as the arbiter of the ministerial code.

Chair: Perhaps, as Mehmuda pointed out, it is due a name change if the "independent" part is not what it says on the tin.

Q228 **Philip Dunne:** Good morning, Ministers. I would like to touch on the role of political parties in this process. Leader of the House, you have touched on a role in training, and we have another question on training later. In relation to HR processes in the parties, where there is some responsibility, and setting tariffs—in one party at the moment, precautionary exclusion is a sanction in relation to some standards behaviours—do you think the parties should play a bigger role in policing their MPs? Should parties be working together to develop a common set of procedures?

Penny Mordaunt: Political parties have different structures, and they will have different disciplinary processes and complaints processes because of those structures and the governance structures of the parties. Again, I do not think it is about a mirror image of those processes; it is about the outcomes and the principles that sit behind them and how that interacts with Parliament and the wider landscape.

The risk-based exclusion work that has recently been done is a good example of that, because when the process was started and the policy was



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being developed, it bore no reference to the processes that were going on in Whips' offices. In one party's instance, it might be quite rare for somebody in that set of circumstances to be on the estate, but in another party, it might be quite common for them to be on the estate. What has strengthened that work is getting the House authorities to go and talk to the Whips' offices about what they do in certain sets of circumstances. In my view, that has produced a better outcome than would have otherwise been the case.

I think that that working together—and recognising that all these things are going on at the same time, and that unless you make reference to them you are not going to arrive at something that makes sense to the individual—is to be welcomed.

Q229 Philip Dunne: Do you have any view on the tariff structure that we can apply as the Committee on Standards when we have the most serious cases?

Penny Mordaunt: Yes, I do. Again, I have said this in private session, but I think that there are a number of issues. For example, when the original legislation was going through, the threshold for recall was 30 days, but it was reduced during the passage of that legislation to 10 days. I think that has removed some middle options for people and it probably needs to be looked at.

I also think that we have a sort of legacy, going back to when the norm was that a Member of Parliament had a range of jobs, as opposed to it being a main job. There is the question of whether some of the financial sanctions that are placed on people who cannot attend the Commons due to poor behaviour are helpful or appropriate in the modern world. There would be quite a small set of circumstances in which someone would be suspended from a job without pay, without there being some recognition of the consequences for that person. There is also the question of whether that makes someone more vulnerable to the types of things that we do not want to see happen—people being approached by third parties if they are getting into severe financial difficulty, for example. There needs to be an awareness about some of those things.

I have also raised the issue of there being some circumstances in which the requirement for a public apology may not fully realise the consequences of making that apology for an individual. It is important that if we get things wrong, we recognise that we are letting the whole of Parliament down. I can see why those kinds of apologies might happen. However, because of the social media world we live in now, those kinds of hooks may lead to more severe consequences for some Members than the Committee would want. It is about looking at whether those things that were absolutely normal, and made sense in Parliament, make sense now given some of the consequences that people might be facing.

The recall point is one that many Members have reported to me. They are concerned that it does not give any middle way and the range of sanctions that I think Parliament would want to see.



Q230 Sir Francis Habgood: Can I take you back to your input into this Committee? You told us about the sense of isolation from the standards system, and particularly the fact that people are often left feeling that decision making is too remote and investigations take too long to conclude. What do you mean when you refer to decision making as remote, and what can be done about that?

Also, on the timeliness issue—you referred to that earlier on, in terms of excellence and investigations being concluded in a timely way—the reality is that that has to be balanced with the need for scrupulous observance of the investigative process. There is also the reality that, sometimes, the delays are caused by MPs not responding in a timely way, because there are actually no time-limit requirements, in terms of responses, on MPs or anybody in the process. I am thinking of whether there should be some sort of requirement around those time limits.

Penny Mordaunt: In terms of my concerns, those were largely focused on ICGS, which is clearly going through its own separate review. The impact on Parliament and individual MPs when things take an inordinately long time is one thing, but having visited some constituencies where the sitting Member has been in those sets of circumstances, I also know that it is pretty devastating for the community. If you are without representation and you have a problem, what do you do? It has a really profound, negative impact on the public.

I very much welcome the ICGS's work. I think there will be understandable delays, and some of those things might be acceptable—for example, regarding someone's mental health—but when those delays are caused by below-par investigatory work, that is a problem. I have met those conducting the review and fed in my detailed opinion about these things, and I will wait to see what they come back with, but it is fairly well known, I think, that the delays to those investigations are not justifiable.

Sir Francis Habgood: We have picked that point up with the director as well.

Q231 Chair: In legal cases—in civil and criminal cases—there are time limits to set expectations, so that people know how long they have to file their defence or to file further and better particulars. Obviously, nobody wants to pressurise the complainant or to be unfair on the respondent, but should there not at least be indicative time scales? In particular circumstances, there might be a discretion to extend those, obviously, but should there not be at least something by way of timescales?

At the moment in the ICGS system, there are literally no timescales. On the Privileges Committee, we have various timescales whereby we require a Member to report back to us within a certain period of time in response to an issue, but the ICGS has no time limits at all. There has been this concern, as you have reflected, about the timescales being very lengthy.

Penny Mordaunt: Yes, I am very sympathetic to that. I think that all parties, including the general public, benefit from these things being done as swiftly as possible, and I think that having that expectation set is



helpful. But I know that the ICGS is looking at that and looking at the impact on investigations.

Q232 Sir Michael Ellis: Can I just come back on a couple of points that you have been asked? I want to ask you whether you think that this landscape should affect candidates, as well as Members of Parliament. There is a school of thought that it should, although, of course, candidates are not Members of Parliament, and there is therefore an argument that that may be an overreach.

When you are addressing that point, can you also address the issue, which you have been asked about, regarding the independence of advisers? The independence of an adviser is maintained so long as the route to their advice is sacrosanct, but whether or not their advice is followed is another thing. "Advisers advise and Ministers decide" is the old saying. Do you accept that point, and do you think that that is a fair assessment of how it relates to the standards landscape?

Leader of the House, you spoke about issues that you have picked up from colleagues—about the 10 days, the range of sanctions being inadequate, and so on. Have you heard any comments about the issue of the 10% in the constituencies? Have either of you spoken about that? Perhaps you can try to address those points in your responses.

Penny Mordaunt: On the two issues that are relevant to me, it is clearly not for the House to start interfering in the candidates process: that must be owned by political parties. However, we are missing a trick if we are not helping political parties and working with them to ensure that when people get here, they are best prepared for the job that they will do. Part of the approach to improving standards in public life is to enable a person to be equipped to do the job; to be less likely to get themselves into difficulty or crisis; to be as resilient as they can be when they get here; and to be as well informed as they can be when they come through the door.

It is just a very practical point, in my view, that if you want people to attend training sessions on cyber-security, you stand a better chance of people attending those sessions when they are candidates keen to demonstrate to their electorate that they will get in, as opposed to being busy MPs who are here and being pulled in all directions and clearly wanting their main focus to be serving their constituents.

Also, on many of these issues—security, for example—candidates need to know things. They will need to know them during an election campaign for their own safety and the public's safety, so let us get in there early and ensure that everyone who comes through these doors has what they need to do the best job that they can. I think that is important.

Alex Burghart: Sir Michael, your point was about independent advisers. What would you like me to say further to what I have already said?

Q233 Sir Michael Ellis: I think you have already made your point that you agree with my premise, do you not, that advisers advise and Ministers



decide?

Alex Burghart: Absolutely. The alternative to a system in which the Prime Minister is the adjudicator of the ministerial code is that they cease to have that direct link with the Prime Minister as their boss, who can hire and fire them. There are alternative routes for Parliament that I think have been slightly forgotten. I am not quite suggesting that we go back to the days of impeachment, which has not been used since 1806, but parliamentary censure is still a tool in Parliament's armoury if it wishes to call a Minister's conduct into question. We should be aware of all the constitutional options available.

Q234 **Sir Michael Ellis:** Do either of you have anything to say about the 10% in the constituencies on the recall? That is written into statute, I think, but I wondered if you had anything to say about that.

Alex Burghart: We certainly always keep the 2015 Act under review. Some concerns have been raised about the 10% and whether it is too low. Again, I would be grateful for the Committee's views on that.

Q235 **Yvonne Fovargue:** We have heard about some of the sanctions available already, but the Government have called on the Committee to consider broadening the sanctions available, learning from modern workplaces and other Parliaments around the world. What kind of broadening would that mean? What sanctions do other workplaces use that would be appropriate to Parliament and are not currently used?

Penny Mordaunt: My particular issue with this goes back to the training point and the awareness of rules. I think I gave the example to the Committee of somebody who, having fallen foul of a particular rule because they genuinely were not aware of it, was mandated to go on a training course about it. I felt that this was ironic, because they were probably the only MP that knew about the issue, whereas there was no thinking that, "Actually, if someone doesn't know that this exists, ought we to be raising awareness of that particular rule?" For me, it is actually about the awareness and the appropriateness of some sanctions, which I think are perhaps a legacy of how this job used to be as opposed to what it is now.

Q236 **Yvonne Fovargue:** Do you have any examples from other Parliaments around the world of sanctions that they use, which you think could be brought over here?

Penny Mordaunt: We have looked at the Irish Parliament, but I don't think that some of the innovations that this Parliament has considered—I know, for example, the Speaker's Conference had been looking at what other Parliaments are doing—translate well into getting the outcomes we want on behaviour. In the work that was done to kick the tyres on whether MPs were right to be the employer of their own staff, a whole raft of things were raised about whether, if someone had not gone on this training course, they should be covered by this particular piece of insurance, and all of that. I think that with those kinds of sanctions, you just end up getting into more difficulty. The only way to really crack this is



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through much better training, and much better awareness and communications of the obligations on people, as opposed to the focus on particular sanctions.

Q237 Dr Parr: My name is Rose Marie Parr and I am a lay member of the Committee. Thank you again for coming along to give evidence. In many ways, Philip and Michael have already asked you this question, but I will give you an opportunity to add anything if you want to. My question is around the Recall of MPs Act 2015. You have already said that it is working well but there is room for improvement. Other than what you have already said, are there any other issues you would like to add for improvements? Do those improvements need to be changed by primary legislation or are they things we can do just now?

Penny Mordaunt: I think that the main complaint and concern is the trigger for that process—that by the original legislation having gone from 30 to 10 days, it does not give you a lot of options. That is the chief concern with that. It has been in operation for a while. You are starting to get these cases—you of all people will know—where you found yourself maybe wishing you had more options for individuals. That is the chief complaint made to me from colleagues.

Alex Burghart: I completely agree with what the Leader of the House said. We have made a couple of changes since the Act was introduced. We are mindful of what the Electoral Commission has said. It monitors recall votes very closely and after the recall vote in Rutherglen and Hamilton West, it made a number of proposals, which we will consider.

Dr Parr: Thank you.

Chair: That brings to an end our questions. Thank you very much for your written evidence. I hope we will be able to continue to discuss these issues until such time as we conclude the report we are giving to Parliament. Thank you very much indeed.